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Venire Jurors' Ability to Detect and Willingness to Disclose Bias

DISSERTATION

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DOCTOR OF PHILOSOPHY

in Psychological Science

by

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ABSTRACT OF THE DISSERTATION

Venire Jurors' Ability to Detect and Willingness to Disclose Bias

By

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Doctor of Philosophy in Psychological Science

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The legal system relies on voir dire to ensure the Sixth Amendment guarantee of an impartial jury. This dissertation tests the assumptions of voir dire that venire jurors 1.) can identify their biases accurately and 2.) will report them honestly. It was proposed that venire jurors would underreport their bias. As a result, we hypothesized that a significant proportion of venire jurors who claim that they are impartial would be inaccurate. The present study sought to disentangle whether the jurors are inaccurate because they are unaware of their bias or unwilling to admit it. First, it was hypothesized that increasing participant's privacy during voir dire would increase their disclosures of bias. However, it was also hypothesized that increasing venire juror's candidness would not increase the accuracy of their self-reports of bias. That is, we expected to find evidence that jurors underreport bias because they lack awareness of it.

The present study was conducted at the Orange County Superior Courthouse with 382 venire jurors. An anti-defendant bias was induced experimentally in a sample of the participants through exposure to pretrial publicity (PTP). The participants then completed a mock trial. During voir dire, participants were asked about their ability to be impartial. Participants exposed to PTP were randomly assigned to complete voir dire either through an in-person interview or a

paper-and-pencil questionnaire. Then the participants read a case summary and rendered a verdict. Last, participants completed a post-verdict questionnaire assessing how they thought the PTP affected their verdict.

The data revealed that the majority of PTP-exposed venire jurors (70%) maintained that they were not biased. However, privacy did not influence their self-reports of bias, revealing no support for the hypothesis that venire jurors systematically underreport bias. Further, the findings did not support the hypothesis that venire jurors' self-reports are inaccurate. Participants who said that they were biased were significantly more likely to convict (48%) compared to those who said that they were impartial (21%). Participant's accuracy also did not vary as a function of their level of privacy during voir dire. Overall, these findings suggest that venire jurors can and do provide accurate self-reports of pretrial publicity bias.

CHAPTER 1: THE JURY SELECTION PROCESS

Voir Dire Overview

Jury service is one of the few mandatory civic duties in the United States. Individuals receive jury summons from voter and driver registration lists. But not everyone who is called will be impaneled. Statutory requirements limit eligibility to English-speaking adult citizens. Individuals may be excused for financial or health-related hardships, members of the armed forces, police officers, and government officials are exempt, and most jurisdictions prohibit felons from serving on a jury (Kalt, 2004). Once the eligible individuals are at the courthouse, this pool of potential jurors is called the *venire*. Venire jurors are impaneled on cases through an examination process known as *voir dire*, which is considered essential to ensure an impartial jury as guaranteed by the Sixth Amendment (Fed. R. Crim. P. 24 [a]; Fed. R. Civ. P. 47 [a]).

Voir dire allows the trial judge and attorneys to examine the potential juror's fitness to decide the case at bar. A juror is considered fair and impartial if she has a neutral stance on the case and makes her decision only on the basis of the evidence presented in court. Potential jurors who do not meet this qualification are dismissed from service through *challenges for cause*. The trial judge can sustain an unlimited number of challenges for cause to remove potential jurors who reveal that they cannot remain impartial.

After challenges for cause have been exhausted, the litigants can use *peremptory challenges* to remove a limited number of potential jurors who they feel will not be favorable to their side. The number of peremptory challenges varies by the jurisdiction and the type of case. In California, the number of challenges per side for a single defendant is 20 for death penalty and life sentence cases, 10 for felony cases, and 6 for misdemeanor and civil cases (Cal. Civ. P. 231 [a, b, c]). Due to the adversarial nature of peremptory challenges, theoretically, each party will

cut the most biased jurors from each end and leave a relatively neutral panel. Peremptory challenges do not require justification for a juror's dismissal, but if the trial judge requests a reason, the challenge will only be sustained if the attorney can provide a basis that is not racially discriminatory (*Batson v. Kentucky*, 1986). Many states have extended *Batson* challenges to include gender discrimination as well (Diamond, Ellis, & Schmidt, 1997; Sommers & Norton, 2007; *J.E.B. v. Alabama*, 1994).

All courts examine the potential jurors before they are impaneled, but there is no formal definition of the necessary scope or method for conducting voir dire (Levitt, Nelson, Ball, & Chernick, 1971; Loewy, 1995; *United States v. Wood*, 1936). Consequently, several factors of the voir dire process vary by jurisdiction, state, and even courthouse. For instance, the amount of time spent examining the panel ranges from half an hour to 16 hours (Mize, Hannaford-Agor, & Waters, 2007). Additionally, judges and attorneys may pose questions to the panel as a whole, to individuals within the group, or through sequestered questioning. The most common method for questioning the potential jurors is to raise some questions to the panel and then follow up with specific individuals. It is also becoming more common to use questionnaires that the potential jurors complete in advance of voir dire (ABA Principles, 2005; Hannaford-Agor & Waters, 2004; Mize, Hannaford-Agor, & Waters, 2007).

There is also variation in who primarily conducts voir dire. In federal courts, the trial judge vets the potential jurors and only allows attorneys to participate by submitting requests for follow-up questions. However, the majority of current judges will allow some limited time of direct attorney involvement in criminal cases (Hannaford-Agor & Waters, 2004; Mize, Hannaford-Agor, & Waters, 2007), and the American Bar Association recently requested a change to the federal rules of civil procedure to include time for direct attorney-conducted

questioning (Susman, 2017). On the other hand, state courts include more attorney involvement in voir dire, with only 10 states predominantly or exclusively using judge-conducted voir dire (Mize, Hannaford-Agor, & Waters, 2007). Across California, the most common practice is for the judge to begin the questioning and allow attorney-conducted voir dire for approximately 10-15 minutes per side (Hannaford-Agor & Waters, 2004).

Types of Bias to be Detected by Voir Dire

The legal system relies on voir dire to ensure an impartial jury by identifying and eliminating potential jurors who are biased. One scholar defined bias in a legal judgment as "a prejudgment of the defendant which influences a judge or juror's judgment over and above the examination of the law and evidence" (McGillis, 1978, p. 298). In other words, the law requires that jurors enter the courtroom with a neutral stance and an open mind, and it requires them to base their verdict only on the evidence produced in court. The law differentiates between two types of bias for which a potential juror is eligible for dismissal from the panel for cause: *actual bias* and *implied bias*.

Actual bias (i.e., "in fact", *United States v. Wood*, 1936), requires an admission by the potential juror during voir dire that they have an opinion on the issue in the present case. The opinion must be too strong to control such that it will hinder her ability to decide the case in a fair and impartial manner. Judges and attorneys' primary method of screening for actual bias is asking directly with a catchall question posed to the panel or an individual such as the following: Do you have any biases that might prevent you from deciding a fair and impartial verdict? Other similar questions ask whether anyone has any strong opinions or concerns about the case and applying the law fairly (Broeder, 1964; Hannaford-Agor & Waters, 2004; Press, 2009; Suggs & Sales, 1981). The potential jurors make a self-assessment of whether they have any relevant

relationships, experiences, attitudes, or beliefs and report their diagnosis. It is up to the potential jurors to determine what information is relevant and proffer it to the court.

Implied bias (i.e., "by matter of law", *United States v. Wood*, 1936) occurs when bias can be reasonably presumed by the existence of a fact. There are three commonly accepted *facts* that makes a person eligible for dismissal because of implied bias. First, a prospective juror who has a direct relationship with any of the parties involved in the case cannot be expected to take a neutral stance during the trial. Second, individuals with pretrial knowledge about the material facts of the case (e.g., exposure to pretrial publicity) could form an opinion of the defendant such that their mind is made up before the trial. Third, the panel is also often asked if they have ever been the victim of or charged with a crime or personally know anyone who has. Individuals who have experienced similar circumstances to the one at issue in the trial may be presumed biased (Hannaford-Agor & Waters, 2004; *United States v. Aguon*, 1987).

It is important to note that total ignorance of the facts or issues of the case is not required; rather, it is critical that a person has not formed a fixed opinion (*Irvin v. Dowd*, 1961). A promise from the jurors that they intend to temporarily shelve any inclinations they may have and render an opinion based on only the evidence presented at trial is a legally sufficient assurance for the court (e.g., *Mu'Min v. Virginia, 1991*). In this case, a juror is said to be *rehabilitated*.

Trial judges are given wide latitude in determining what constitutes an acceptable degree of juror impartiality (Levitt, Nelson, Ball, & Chernick, 1971; Loewy, 1995). In 1936, Chief Justice Hughes stated, "Impartiality is not a technical conception. It is a state of mind. For the ascertainment of this mental attitude of appropriate indifference, the Constitution lays down no particular tests and procedure is not chained to any ancient and artificial formula" (*United States v. Wood* 299 U.S. 123, 146).

Self-Reports of Bias During Voir Dire

The present research will focus on venire jurors' self-reports of bias induced by exposure to pretrial publicity (PTP), where venire jurors have acquired information through the media about the case before it has gone to trial. Thus, this review of the literature on venire juror's self-reports is limited to PTP bias. Previous research has consistently shown that the majority of venire jurors exposed to PTP assert that they will be able to be impartial and set the PTP bias aside during the trial. For instance, in a study by Kerr, Kramer, Carroll, and Alfini (1991) on the effectiveness of various safeguards in voir dire, 82% of the jurors in the venire said that they were still impartial. Additionally, Sue, Smith, and Pedroza (1975) exposed a group of undergraduates acting as mock jurors to damaging PTP then asked if they could make an unbiased judgment in the case; nearly three-quarters (74%) of the PTP-exposed participants in the study said that they could make a fair and impartial judgment.

Comparable rates of self-reported bias were also found in two correlational studies. In the first, Moran and Cutler (1991) examined self-reports of impartiality in two change of venue surveys. A combined sample of over 700 community members was contacted through random digit dialing and questioned about the extent of their exposure to PTP regarding a current local case as well as their perceptions of the defendant's guilt and ability to serve as an impartial juror. The researchers found that 63% of the sample said that they could remain impartial if called to serve as a juror.

There is also a similar unpublished dissertation by Chrzanowski (2006) that examined the effects of PTP bias on verdict decisions. The researcher first surveyed a sample of community members about their exposure to PTP in a current case and their opinions about the defendant's guilt. Over three-quarters of the community sample knew about the case and also believed that

the defendant was probably guilty. Then she was able to survey the actual venire jurors called in to potentially serve in that case and asked them to assess their ability to be impartial. Interestingly, the survey was conducted with venire jurors in Orange County, CA, and the researcher reported that 70% of the venire jurors said that they could still be neutral. She concluded that the number of jurors admitting bias (30%) was too low based on the amount of bias uncovered in the survey of community members (77%).

Legal Assumptions of Bias Detection

The law assumes that potential jurors accurately and honestly report their biases to the court during voir dire. The fact that the only measure of bias the courts rely on during voir dire is the juror's self-report underscores the assumption that jurors can accurately self-diagnose their bias as well as control its influence. The law also assumes that jurors' self-reports of bias are honest. This is a reasonable assumption since everyone is sworn in, and intentionally lying or concealing information can result in charges of perjury or criminal contempt for obstructing justice (e.g., *Clark v. United States*, 1933).

This dissertation proposes to empirically test both of these assumptions (i.e., ability to accurately assess bias and honesty when disclosing bias). But first, it is important to set the theoretical foundation for such testing. The following two chapters will review the psychological literature relevant to self-reports of bias and the challenges individual's face, first, in accurately recognizing that bias is present and, second, regarding one's willingness to disclose an unfavorable self-diagnosis.

CHAPTER 2: ARE PEOPLE ABLE TO SELF-IDENTIFY BIAS?

Necessary Conditions to Identify and Correct Bias

The ability to accurately self-diagnose and correct bias is limited by fundamental properties of human cognition. Wilson and Brekke (1994) outline a model of the four necessary conditions to accurately assess and correct the effect of bias on judgment, behavior, or emotion: 1.) awareness of bias; 2.) knowing the direction and magnitude of bias; 3.) motivation to correct bias; and 4.) mental control to correct bias. The present chapter reviews the research bearing on each of these conditions.

Awareness

The first step is an awareness that bias exists. This is not as simple as it might seem since much cognitive processing occurs outside of conscious awareness. As a general matter, people lack direct access to the mental processes involved in higher order thinking and cannot verbalize how a stimulus affects the response. However, even when people are aware, introspective abilities are quite limited.

In one demonstration, Nisbett and Wilson (1977) manipulated a college professor's personality during a videotaped interview as either warm or cold while holding his physical characteristics constant (i.e., appearance, accent, and mannerisms). The result was a *halo effect* such that participants in the warm personality condition rated the three characteristics positively while participants in the cold personality condition reported the same characteristics negatively. Interestingly, participants not only denied that they had exhibited the halo effect, but they also claimed that the opposite causal pattern had occurred in their decision-making process. That is, they explained that their evaluation of each physical characteristic led to their overall evaluation of his personality as warm or cold. Thus, the participants were not aware of the cognitive process

underlying their evaluation and thought that they were being objective. However, they were unaware that liking or disliking his personality is what had led them to their opinion of his physical characteristics.

In another demonstration from Nisbett and Wilson (1977), participants read an emotional passage from a novel. Some participants read the passage in its entirety while others read a modified version of the passage that excluded a particularly graphic scene. All participants subsequently reported the overall emotional impact of the passage they read on a 7-point scale, and, interestingly, there were no significant differences in ratings between the groups. Each group was subsequently presented the graphic description and asked about how it did (full passage condition) or would have (modified passage condition) influenced the overall emotional impact of the passage. Those who had the graphic descriptions included in their passage said that it had a strong influence on the overall emotional impact of the passage. Similarly, those who were seeing the description for the first time said that they thought that the addition of that description would have caused them to give higher ratings of the overall emotional impact. However, both groups (i.e., the full and modified passages) had actually given equal ratings of emotional impact. Since the participant's descriptions of their cognitive processes were incorrect, the researcher's concluded that participants were not relying on introspection. Instead, the participants seemed to indirectly infer the process by applying theories about how one might expect a stimulus to influence the response.

If one cannot use introspection to gain awareness of how a biasing factor has influenced a response, then another way of knowing that the effect has occurred is by relying on a causal theory. When a person has an accurate theory about how one mental event affects another, then she potentially could determine if she has been affected without any conscious awareness of the

process (Nisbett & Ross, 1980; Wegener & Petty, 1997; Wilson & Brekke, 1994). For example, a person might use a theory about how gender can affect perceptions of a job candidate to be more mindful while evaluating an applicant's suitability (Wilson & Brekke, 1994). However, one issue with relying on lay theories as an indirect method of awareness is that the ostensible causal theory can easily be incorrect (Nisbett & Ross, 1980). The only way for one to detect bias with this method is to have an accurate and applicable theory, something that is exceedingly difficult.

Some research has demonstrated the usefulness of having an applicable causal theory to identify and subsequently correct for biasing influences. In a study by Thompson, Fong, and Rosenhan (1981), undergraduates participated in a mock felony murder trial which varied the type of inadmissible evidence so that participants saw either no inadmissible evidence (control), pro-acquittal, or pro-conviction inadmissible evidence. The results revealed that the mock jurors were aware that the pro-conviction evidence would bias their verdict, and these participants were able to correct for its influence and render an unbiased decision.

However, participants exposed to the pro-acquittal evidence were unable to ignore its influence, as their conviction rate was significantly lower than the control group. Yet, they were evidently unaware of its impact on their judgment. Participants erroneously reported that they would have come to the same conclusion had they not been exposed to the pro-acquittal information. It is possible that the mock jurors exposed to the pro-conviction evidence had accurate lay theories about how it would adversely affect their verdict, which they then were able to compensate. Whereas for participants in the pro-acquittal evidence condition, there was an incorrect or no available lay theory, leaving participants unaware of the extent of its effect and unable to make an effort to correct for it.

Know Magnitude and Direction

Given that an individual is at least aware that there is a chance that bias has affected her judgment, she must also know the direction and magnitude of the bias to successfully correct for it. This can be a difficult task since the integrative nature of the cognitive system results in more holistic processing, and it is from this overall impression that people will base their final decision (Pennington & Hastie, 1986; Studebaker & Penrod, 2005). Hence, people cannot, after the fact, tease apart the effect of individual pieces of information from the overall impression. (DeKay, 2015; Hope, Memon, & McGeorge, 2004; Simon, 2004).

For example, one cognitive mechanism underlying decision making is coherence-based reasoning (Simon, 2004). The theory posits that, to work through complex decision-making tasks that include ambiguous and contradictory evidence, coherence is imposed through a feedback loop between the network of evidence and the decision alternatives. During this process, one conclusion will emerge as ratings of the evidence polarize. Ratings of the evidence supporting the leading choice are strengthened while the disconfirming evidence is discounted. Thus, evidence transforms as it accumulates, called *coherence shifts*, into a clear mental model that results in a confident conclusion. Notably, coherence shifts are mostly automatic and unconscious, as people fail to notice that their ratings of evidence strength have changed and instead report that their perceptions remained stable and consistent with the final decision (Holyoak & Simon, 1999; Simon, 2004).

In one study of coherence-based reasoning in a criminal case, participants heard that a defendant was either a malevolent or benevolent person with the case facts held constant (Holyoak & Simon, 1999). The character information shaped the participant's interpretations of the case facts, and 72% of those who heard about a good character decided to acquit while only

22% who heard about a bad character decided to acquit. Further, participant's recall of their initial position was often incorrect and misremembered as closer to their final position than it truly was.

The integrative nature of cognitive processing can result in correction errors including unnecessary correction, insufficient correction, and overcorrection (Wegener & Petty, 1997; Wilson, Centerbar, & Brekke, 2002). In one study (Wegener & Petty, 1995), participants used theories about the magnitude of bias when instructed to correct for contrast effects. Participants were asked to evaluate the attractiveness of vacationing first in Hawaii and then in Indianapolis. Those who thought that their evaluation of Hawaii's desirability as a vacation spot had made their subsequent assessment of Indianapolis appear less desirable attempted to correct for the contrast effect by adjusting their rating of Indianapolis upwards. However, their ratings were significantly higher than a no-comparison control group. Thus, the participants systematically misjudged the magnitude of the contrast effect and showed a tendency to overcorrect their response in this case.

Another study by Petty and Wegener (1993; experiment 4) showed that people may also under-correct or unnecessarily attempt to correct an unbiased judgment. Using the same "vacation spots" paradigm participants in the biasing condition were first asked to assess the desirability of vacationing in several popular locations (e.g., Hawaii, Bahamas, Paris) and then asked to rate the desirability of vacationing in the neutral target cities (e.g., Indianapolis, Green Bay), thus creating a contrast effect. The control group rated two groups of neutral cities (i.e., no contrast effect). Additionally, all participants received instructions between the first set of cities and the neutral target cities. One group read an instruction that was meant to subtly cue them to the possibility that contrast effects could bias their ratings of the neutral cities (i.e., referring to

the neutral target cities as the "next group to consider"). The second group read an instruction with a blatant cue (i.e., the next group has characteristics "quite different from the vacation spots just rated"). The control group received no instructions.

The results showed that, compared to biased participants who received the blatant cue, biased participants in the subtle cue condition insufficiently corrected their ratings of the target vacation spots. Additionally, participants in the control condition responded to the blatant cue by attempting to correct their evaluation. In other words, the participants adjusted their ratings of the target locations despite the fact that there had been no contrast effect to bias their evaluation.

Motivated to Correct

Even if an individual is aware that a source of bias is affecting her judgment and has some estimate as to its magnitude, she will not attempt to correct it unless adequately motivated. First, she must want to change her initial response. It is possible for one to believe that it is appropriate for the biasing factor to influence their response. For instance, inadmissible evidence presented during a trial is a source of bias, but jurors have been shown to selectively comply with instructions to disregard the evidence (Lieberman & Arndt, 2000), such as when the evidence was unreliable compared to if it was obtained illegally (Kassin & Sommers, 1997). If the information was probative, then it was deemed necessary to inform their decision regardless of how the evidence was obtained. This finding indicates that the jurors likely felt more motivated to correct for bias when doing so was precipitated by the search for truth as opposed to protecting the defendant's due process rights. Second, people may prefer to retain a biased rather than spend the time and energy needed to change their initial reaction. As described in the following section, mental control requires extra time and effort. These additional costs may be perceived to outweigh the benefit of correcting for bias (Swan, 1984).

Mental Control

The last step of Wilson and Brekke's (1994) model is to have sufficient mental control to correct for bias. Mental control refers to one's ability to adjust their response. However, the ability to control thoughts and feelings is also limited by fundamental properties of cognition.

Gilbert (1991) argued that the cognitive process involved in believing an idea is analogous to process of perceiving an object. One tends to initially believe that the object she perceives is an accurate representation of reality. Since object perception is highly accurate, one can depend on perception to guide behavior without expending extra time and effort to confirm its accuracy. In other words, if it looks like a duck, then it is safe to assume it is a duck. Mental representations of ideas function in the same way as mental representations of objects. That is, people initially believe that a proposition is true because societies are built on trust that the majority of human communication is honest (Swan, 1984). This "truth bias" effect is robust in the deception detection literature and persists even when participants know that there is a good chance the proposition could be false (e.g., given base rate information that 50% of the people in the study stimuli are lying; see meta-analyses by Bond & DePaulo, 2006; Gongola, Scurich, & Quas, 2017).

Therefore, time and effort are required to reject an idea or proposition as false. This was demonstrated in a study conducted by Gilbert, Tafarodi, and Malone (1993) in which increasing cognitive load negatively impacted mental control. There were two different contexts – criminal sentencing recommendations and likeability ratings of a student – and two different cognitive load manipulations – having participants read color-coded case facts during a simultaneous digit-search task and speed-reading under time pressure. Results consistently showed that participants who were cognitively busy were more likely to misremember false statements as true but did not

misremember true statements as false. This is evidence that participants tended to believe statements first, both true and false, as they were comprehending them, and those who did not have the cognitive resources available were not able to doubt the propositions.

The difficulties associated with mental control can be exacerbated by people's overconfidence in their abilities to control bias. However, willpower alone often is not sufficient to correct a biased response. Even if it is apparent to the person that her response is based on misinformation, she may sill fail to control her biased response (Lewandowsky et al., 2012). For example, Anderson, Lepper, and Ross (1980) had one group of participants read an article that led them to believe that more successful firefighters are more likely to engage in risk-taking behaviors, and another group was led to believe that successful firefighters engage in more conservative behaviors. Immediately after reading the articles, half of the participants in each group were told that the researchers had actually fabricated all of the information they had read and that it was not reliable. Yet, in a subsequent task, these participants continued to believe that the strategy for successful firefighting presented in article they read was correct. Their ratings of the of the article's persuasiveness were no different than control groups where the information had not been retracted.

A second experiment replicated the belief persistence effect (Anderson, Lepper, & Ross, 1980), and, further, found that participant's beliefs were more likely to persist when they had been asked to make their theory about the firefighter's success explicit by writing it down. Thus, the retraction was more likely to reduce bias in those who had not been asked to commit to a theory. Other de-biasing strategies, such as forewarnings, exposure control, and providing alternative narratives, can be more effective but also can be impractical, and reliance on "sticky" misinformation can persist (Lewandowsky et al., 2012; Wilson & Brekke, 1994).

Venire Jurors' Ability to Accurately Self-Identify Bias

The available research on jurors' ability to self-diagnose pretrial publicity (PTP) bias during voir dire is limited, but it suggests that they are often inaccurate. In the first empirical study of juror's ability to self-diagnose bias, Sue, Smith, and Pedroza (1975) had undergraduates in an introductory psychology course read biasing or neutral PTP about the defendant. Then they indicated whether they were biased by the PTP in a voir dire questionnaire. Finally, they read a case summary involving robbery and murder then rendered a verdict.

The results revealed that the mock jurors who admitted bias were more likely to convict the defendant than those who said they were impartial. However, even after removing the mock jurors who admitted bias, the conviction rate among those who maintained that they were not biased (53%) was still more than two times that of the mock jurors who read the neutral PTP (23%). These findings suggest that venire jurors' self-reports are often inaccurate. Although, whether they are inaccurate because they are unaware of the PTP or unwilling to admit it during voir dire was not addressed in the study.

In another study (Kerr, Kramer, Carroll, & Alfini, 1991), the primary purpose was not to examine the accuracy of venire jurors' self-reports per se but was a larger-scale experiment designed to examine the effectiveness of several potential voir dire safeguards in reducing PTP bias. Nearly 800 community members were recruited from a courthouse after being released from jury duty and were randomly assigned to one of four PTP conditions. The control group was not exposed to PTP. The second group read factual PTP, which included potentially relevant information that was not admissible in trial. The third group read emotional PTP, which aroused negative emotions but did not contain factual information; and the fourth group read both types

of PTP. Then the jurors participated in an elaborate 3-hour mock trial complete with voir dire, instructions, opening statements, presentations of each side of the case, and deliberations.

The first purpose of the trial was to test the effect of a continuance, judicial instructions to disregard the PTP, and jury deliberations (see also Kramer, Kerr, & Carroll, 1990). The second purpose was to create the stimuli to test the effectiveness of attorney's challenges during voir dire. While it was not one of the primary analyses, the researchers noted that the relationship between juror's self-reports during voir dire and verdicts was not significant. That is, all of the jurors convicted at the same rate regardless of whether they admitted bias, were unsure if they were biased, or said they were impartial during voir dire.

In one final study, the researchers did not focus on jurors' ability to accurately detect their biases; rather, they focused on de-biasing jurors by increasing their self-awareness and control of the bias. Crocker and Kovera (2010) tested another potential safeguard used in voir dire to reduce PTP bias known as *rehabilitation*, in which a juror who reveals a potential pre-existing opinion that may bias their verdict decision is instructed to set it aside during the trial. Stated differently, the judge oftentimes will follow up with a juror who admits bias to confirm if she is sure that she cannot decide the case based only on the evidence presented at trial.

The researchers recruited community members to participate in a mock trial involving the insanity defense. They were randomly assigned to a standard or rehabilitative voir dire. Rather than manipulating PTP bias, the researchers measured the mock juror's opinions about the insanity defense. Participants with strong opinions against the insanity defense were coded as biased. In the standard voir dire, there was no mention of potential bias. The mock jurors simply answered some basic demographic questions and commented on their interests, hobbies, and news sources. In the rehabilitative voir dire, the trial judge also told the mock jurors that their

questionnaire indicated that they have some bias, but they must put that opinion aside during the trial and decide according to the law.

The results revealed that conviction rates did not decrease when the jurors were educated on the law and instructed to set their conflicting opinion aside. While not enough to make a significant impact on the conviction rates, all of the jurors who had the rehabilitative voir dire did show reduced confidence in the defendant's guilt. However, their confidence was reduced regardless of whether or not they were biased against the insanity defense. That jurors without a bias were similarly influenced by rehabilitation is further evidence it did not achieve the intended effect. In sum, this study suggests that jurors may lack awareness and control of their biases.

Summary

This body of research suggests that individuals—like jurors—may have difficulty accurately detecting bias, knowing how that bias might influence their judgments, and controlling its influence. More research is needed in the jury context, but the social psychology literature suggests that the assumption underlying voir dire—that jurors can accurately identify and set aside bias—may be an unrealistic ideal. The difficulties associated with this assumption can be illustrated with an example. If a potential juror is exposed to damaging pretrial publicity that biases her against the defendant, then the court will require that she exclude those pieces of inadmissible information from her overall impression of the defendant's guilt. To be "impartial", the juror must base her verdict only on the evidence presented during the trial. Research indicates that she will face challenges at every step of Wilson and Brekke's (1994) model.

First, the juror might be unsure about whether her exposure has influenced her impression of the defendant since she is unlikely to have direct introspective access to the mental events affecting her judgment. Second, she might have a theory that pretrial publicity would be

expected to bias her judgment toward conviction (which would be accurate; e.g., Fulero, 2002; Steblay, Besirevic, Fulero, & Jimenez-Lorente, 1999), but the theory is unlikely to tell her how much it has affected her judgment. Third, she may not be entirely motivated to erase the inadmissible PTP from her final decision. For some people, personal notions of justice can be at odds with its legal conception. Jurors might disagree with the law and think that the restricted information is necessary to inform their decision (Carlson & Russo, 2001; Thompson, Fong, & Rosenhan, 1981). Fourth, even if the juror is aware and motivated, she still may be unable to control the effect of the pretrial publicity on her judgment. Mental control requires time, effort, and usually more than just willpower.

CHAPTER 3: DO PEOPLE DISCLOSE THEIR BIASES HONESTLY?

Social Desirability Bias

Social desirability bias (SDB) occurs when individuals give responses that are more positive and socially acceptable than the truth permits (Chan, 2009; Tourangeau, Rips, & Rasinski, 2000). Social desirability bias can be unconscious or conscious. The unconscious form is called *self-deception*, in which a person's self-report is honest but positively inflated to an inaccurate degree. The present chapter focuses on the conscious form of SDB, known as *impression management*, which involves deliberately editing a self-assessment. This occurs to convince another person that the respondent is polite, respectable, and healthy (Paulhus, 1984). For example, most people would deny ever engaging in reckless or illegal behaviors, such as drinking and driving, because the desire to protect one's reputation outweighs the willingness to respond honestly (Tourangeau, Rips, & Rasinski, 2000).

Socially desirable responding can manifest through a few different strategies. One way to cope with compromising questions is simply not to answer them. Nonresponse involves skipping a question (in written questionnaires) or remaining silent (in interviews). Nonresponse may occur because people are unwilling to report the information, do not have anything relevant to say, or do not know the answer (Krumpal, 2013; Tourangeau, Rips, & Rasinski, 2000). However, since there are different reasons for missing responses, nonresponse is not always diagnostic of SDB.

A second response strategy is deliberately misreporting information. Misreporting can come in two forms. The first form is over reporting, where respondents report a belief or behavior which they are actually lacking. For example, there are certain things that people feel like they should be doing–like voting, reading, and attending church–and can be reluctant to admit when they have not done so (Armor & Taylor, 2002; Tourangeau & Yan, 2007). The

second form is underreporting, which is when one falsely denies having some attitude or behavior. For example, a respondent is underreporting when she knows she has broken a law but tells the interviewer that she has been obeying the law. In addition to these two forms (i.e., underreporting and over reporting), the magnitude of the misreporting can vary. At its most severe, a report can be wholly false, but one can also take a kernel of truth and minimize or exaggerate it.

If potential jurors are influenced by social desirability bias when reporting on their biases during voir dire, then it would likely manifest as underreporting. That is, the problem during voir dire is that potential jurors may be more biased than they admit. Thus, the literature review below focuses on the factors that are most likely to cause underreporting.

The many factors that influence the degree of SDB in self-reports can be broadly grouped into two categories. First, *situational factors* are defined as external constraints that are more likely to engage socially desirable responding. In other words, SDB can be a temporary social strategy where a person changes her response to conform with contextual or cultural pressures (Tourangeau & Yan, 2007). Second, socially desirable responding can vary as an *individual difference* where some people have response styles that are less candid than others.

Situational Factors that Increase Socially Desirable Responding

Sensitive Constructs

Social desirability bias is most problematic when assessing sensitive constructs, such as potentially threatening or overly personal topics. Topics are sensitive when they tap whether people's thoughts and actions are normative in some socially or personally-significant domain. When the topics are sensitive, people who admit to deviating from the norm risk incurring costs such as conflict, censure, and stigmatization.

Previous research has shown that people misreport a wide array of personal information, including negative attitudes on race (Krysan, 1998), cheating (Ong & Weiss, 2000), unsafe sex practices (Geary et al., 2003; Guest, Bunce, Johnson, Akumatey, & Adeokun, 2005), certain parenting practices (Morsbach & Prinz, 2006), cigarette smoking (Patrick, Cheadle, et al., 1994), and alcohol consumption (Lemmens, Tan, & Knibbe, 1992).

The extent of underreporting sensitive constructs is often more than trivial. For instance, Jones and Kost (2007) examined the extent to which a national sample of women (aged 15-44) underreported having induced abortions. They compared the total number of induced abortions reported by all known abortion providers with women's self-reported rate of abortions. The rate reported by service providers was about twice as high as the women's self-reported rate. The researchers attributed the high level of inconsistency to deliberate underreporting. In other words, the women were unwilling to disclose, even on an anonymous survey, because they feared the possible consequences.

Interviewer Effects

The presence of an interviewer can influence socially desirable responding. For instance, a respondent may try to be polite or gain the interviewer's approval (Bowling, 2005; Tourangeau, Rips, & Rasinski, 2000). Individuals tend to respond to interviewer characteristics like low warmth and high status, dominance, and social distance by inhibiting their behavior and conforming to normative standards (Fiske, Cuddy, & Glick, 2006; Rosenthal, 1966:2009). The result of these interviewer characteristics is that a respondent may be reluctant to reveal beliefs and behaviors that the interviewer is unlikely to endorse. Thus, respondents will edit their answers to suit the interviewer's internalized norms and expectations.

Additionally, people are more reluctant to share a negative opinion when they believe that the person to whom they are talking is heavily invested in the topic. For example, in a study by DePaulo and Bell (1996), participants privately rated their most and least favorite paintings from an array. Then they were randomly assigned to discuss the paintings either with the artist or with another art student. Before the meeting, participants also heard instructions to either be honest, polite, or a no-instruction control. Participants were very reluctant to convey negative evaluations to the artist regardless of the instruction. That is, when a participant did not like a painting, there was no condition in which they gave a completely honest appraisal to the artist who painted it. A few told outright lies, but most either avoided giving an explicit evaluation or gave misleading feedback by only noting the positive aspects.

Mode of Administration

Another important factor that affects socially desirable responding is whether an interviewer is present. Surveys can be administered in-person by an interviewer or they can be self-administered through the traditional paper-and-pencil format or with computer assistance. In the study by Jones and Kost (2007) on nationally reported rates of induced abortions described above, the women had completed both in-person interviews and self-administered questionnaires on a computer. However, only 47% (*CI* = 40% - 55%) of the total number of induced abortions reported by the providers were reported by the participants in the in-person interviews.

However, the rate of induced abortions reported in the questionnaires was 23% higher than the face-to-face interviews. This finding is consistent with a meta-analysis of 673 effect sizes which found that self-reports across personality, attitude, and behavioral measures were more candid in self-administered methods compared to face-to-face interviews (Richman, Kiesler, Weisband, & Drasgow, 1999). In the meta-analysis, moderator analyses revealed that

the increased privacy and anonymity provided by self-administered methods help to explain the effect on SDB on self-reports.

Social Desirability Bias as an Individual Difference

Some individuals are more likely than others to misrepresent themselves in self-reports. Thus, it can be unclear if certain self-report measures reflect true scores or are inflated by respondents faking good characteristics. Researchers can account for SDB by measuring the tendency to give positively-biased answers (e.g., underreport) as an individual difference variable. People with higher scores on SDB scales are assumed to be prone to socially desirable responding on other self-report measures. Those with lower scores are more likely to give candid responses. The social/personality field contains many scales that aim to measure individual differences in socially desirable responding to control for this effect in self-report measures (Edwards, 1953; Paulhus, 1986; Wiggins, 1959). This section will discuss two of the more commonly used scales.

The Marlowe-Crowne Scale (M-C)

One measure is the Marlowe-Crowne Social Desirability Scale measuring the need for social approval. Crowne and Marlowe (1960) adapted the MMPI Lie Scale (Meehl & Hathaway, 1946) to be appropriate for an undergraduate population by removing the components related to psychopathology. Thus, the scale's intended purpose is not a clinical measure of unwillingness to report symptoms of maladjustment. Instead, it is a general measure of the need to behave in culturally sanctioned ways. A panel of psychologists judged several items on social desirability and implied maladjustment and retained the items with unanimous agreement. Undergraduates in an introductory psychology course then completed the preliminary scale, and the final version included the items that significantly discriminated between high and low scores.

The M-C scale is comprised of 33 items (e.g., " I have never deliberately said something that hurt someone's feelings."), with approximately half of the items reverse coded. Scale reliability is generally high (internal consistency α = .88, and test-retest correlation = .89). The M-C scale has convergent validity, as it is significantly correlated with Edward's (1957) clinical maladjustment SDB scale (r = .31), as well as several MMPI subscales, such as negative correlations with depression, anxiety, paranoia, schizophrenia, and prejudice, and positive correlations with test-taking attitude, ego strength, and defensiveness.

The Balanced Inventory of Desirable Responding (BIDR)

Socially desirable responding is defined more precisely as two factors, as uncovered by studies employing factor analysis (see Paulhus, 1986 for a review). First, *impression management* (IM) is a deliberate attempt to appear likeable to others. The second factor, *self-deception* (SDE), is a more unconscious positive-self bias. The Balanced Inventory of Desirable Responding (BIDR) measures both constructs (Paulhus, 1984;1988). The BDIR is comprised of 20 items per subscale and respondents rate their agreement with each proposition on a 7-point scale. One point is scored only for each extreme response (i.e., a rating of 6 or 7) the final score is the sum of all the items. Test-retest correlations range from .65 - .69, and internal consistency is reliable for the full scale (α = .83), the IM scale (.76 - .86), and the SDE scale (.68 - .80).

The correlation between the IM and SDE scales is generally low (ranging from .05 - .40) which indicates discriminant validity (i.e., the two measures are unrelated). The BDIR also has convergent validity, for example, it is correlated with the Marlow-Crowne scale (r = .71). The IM scale is also positively correlated with agreeableness, conscientiousness, and the MMPI lie scale (Meehl & Hathaway, 1946). Additionally, IM is sensitive to situational factors like privacy and mode of survey administration (interviewer or self). The SDE scale is associated with traits

like a higher locus of control and religiosity as well as lower depression, anxiety, and neuroticism. High SDE individuals are also more prone to self-serving biases including the better-than-average effect, hindsight bias, and overconfidence (Paulhus, 1986).

Social Desirability Bias in Venire Jurors

Only a limited number of studies have tested whether venire jurors systematically underreport bias. A study by Jones (1987) tested the consistency of venire juror's self-reports when voir dire was conducted by either the attorneys or trial judge. Community members participated in a realistic voir dire with actors playing the attorneys and judges. The mock jurors answered questions about their attitudes toward legal issues once in private and again during voir dire. The results revealed that jurors changed their responses to be more conservative when a trial judge conducted voir dire. The researcher noted that judge-conducted voir dire could implicitly pressure potential jurors to conform to a certain standard. In other words, the participants may have tried to report what they thought the judge wanted to hear rather than state their honest opinion.

Interestingly, the study by Jones (1987) found that no significant effect for a second manipulation comparing different types of interpersonal styles. The results revealed that the venire jurors were just as honest with the legal professionals who were more approachable and personal as they were with the legal professionals who were more formal and detached. Similar results were found in a study by Marshall and Smith (1986) involving a sample of 267 community members who had recently finished their jury service. The researchers examined the association between juror's awareness of the courtroom's demand characteristics (e.g., formality and seriousness), feelings about being a juror (e.g., anxiety, nervousness), and honesty during voir dire. The jurors who were more aware of the formality and seriousness of the situation were

just as likely to report that they were honest during voir dire as the jurors who were not bothered by these characteristics. Thus, empirical support is lacking for some of the situational factors that legal scholars have proposed theoretically should affect venire juror's self-reports of bias (e.g., Hans & Jehle, 2003; Suggs & Sales, 1980).

Another study, conducted by Neitzel and Dillehay (1982), examined venire jurors' candidness based on the level of privacy during voir dire (i.e., individually sequestered or in a group). The researchers tracked the number of challenges for cause in real voir dire sessions for capital murder trials. Significantly more jurors were challenged successfully when voir dire was conducted individually compared to group voir dire sessions. Presumably, the jurors disclosed less information about their opinions and biases when questioned in a group setting.

Rose (2001) provides additional evidence through over 200 interviews showing that venire jurors are concerned about their privacy. The jurors provided several concerns, including sharing embarrassing and painful admissions (e.g., recounting distressing life experiences), feeling unfairly stereotyped (e.g., past criminal charges on their character), and worry for their safety (e.g., revealing information about their children). Overall, a majority of the sample (53%) felt that at least one question was unnecessary, intrusive, or uncomfortable. Thus, it is reasonable to assume that changes in privacy would influence juror's self-reports during voir dire.

CHAPTER 4: OVERVIEW OF THE PRESENT STUDY

The purpose of the present research was to empirically test the assumptions of voir dire that jurors 1.) can identify their biases accurately and 2.) will report them honestly. The study was conducted at the Orange County Superior Courthouse with a sample of 382 venire jurors.

The present study focused on bias caused by exposure to pretrial publicity (PTP). Exposure to PTP is typically associated with anti-defendant biases and increased guilty verdicts (Steblay et al., 1999). Additionally, PTP bias is one of several types of bias recognized by the court for which a potential juror may be excused from the panel for cause (*United States v. Wood*, 1936). The effect of PTP bias on judgments was isolated by randomly assigning jurors to read either a prejudicial or an irrelevant newspaper article. Another reason that PTP bias was examined is that it is more amenable to random assignment than the other types of bias (e.g., attitudes). Without random assignment, it is possible that a third variable not measured in the study was the real cause of the increased bias.

After reading the newspaper articles and completing a distraction task, participants were informed that the rest of the study would involve a mock trial. The mock trial began with voir dire, during which PTP-exposed jurors were asked to evaluate their ability to be fair and impartial. Previous research has shown that juror's disclosures during voir dire are often inaccurate, such that jurors who say they are impartial tend to convict the defendant at the same rate as the those who admit they are biased (Kerr et al., 1991; Moran & Cutler, 1991; Sue, Smith, & Pedroza, 1975).

There are two possible explanations for why juror's self-reports during voir dire would not be related to verdicts. One reason is that the jurors do not know that the PTP biased them. The other reason is that they are aware of their bias but unwilling to admit it. The present study

tested whether juror's willingness to disclose affects their self-reports of bias by manipulating juror's privacy during voir dire. It was hypothesized that more privacy would increase the number of PTP-exposed jurors admitting bias (e.g., Rose, 2001).

To manipulate privacy, we varied the mode in which voir dire was conducted (i.e., on-paper or in-person). In general, research has shown that underreporting is less likely when the survey questions can be self-administered by the respondent (e.g., questionnaires; Richman et al., 1999; Tourangeau & Yan, 2007). For example, Aquilino (1994) found that higher rates of reported drug and alcohol use with a paper-and-pencil questionnaire compared to in-person and telephone interviews. Additionally, we controlled for individual differences in the tendency to distort responses to be more positive and socially desirable using the Balanced Inventory of Desirable Responding (BIDR).

However, it was hypothesized that increasing jurors' willingness to disclose bias would not increase the accuracy of their self-reports. That is, it was hypothesized that increasing privacy would increase the number of jurors admitting bias but that the conviction rates would remain equal across all of the groups. These findings would indicate that juror's poor bias detection is due more to a lack of awareness of bias rather than a reluctance to admit it. In sum, while we expected to find evidence that jurors are not as honest during voir dire as the law assumes, it was hypothesized that improving bias detection during voir dire would require something other than simply increasing juror's willingness to disclose.

CHAPTER 5: METHOD

Study Design

Figure 5.1 shows a flow chart of the study design. All participants began the study by filling out the BIDR scale. In the first step of the flowchart, participants were randomly assigned to read either a newspaper article irrelevant to the case (i.e., Group 1) or pretrial publicity (PTP). Next, all participants completed a distraction task comprised of several verbal analogies to add more time between the exposure to the newspaper articles and the mock trial.

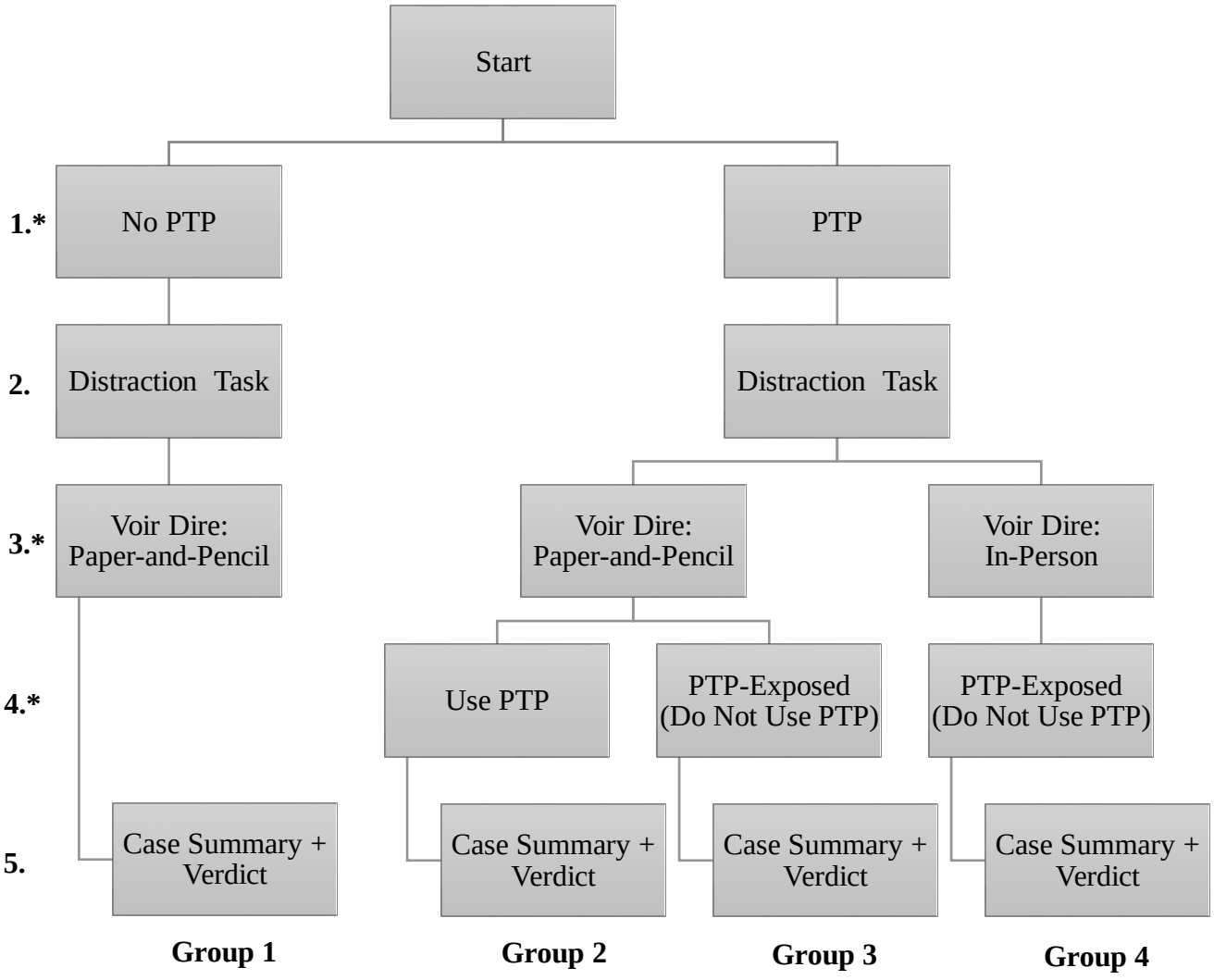


Figure 5.1. Flowchart of the study design. PTP = Pretrial publicity. * = random assignment to the conditions.

In stage three, the participants were told that they would be mock jurors in a criminal trial. All participants began the trial by answering the same set of standard voir dire questions (e.g., demographics, hobbies, news sources). Then, the PTP-exposed participants were asked to self-diagnose and report their ability to be a fair and impartial juror in light of their pretrial knowledge. The PTP-exposed participants were also randomly assigned to complete voir dire either through a paper-and-pencil questionnaire (i.e., Groups 2 & 3) or an in-person interview (i.e., Group 4). The participants in Group 1 (i.e., no-PTP) did not provide a self-report of bias and they only completed voir dire through a paper-and-pencil questionnaire.

In stage four, all participants were impaneled on the case. The case began with a set of judicial instructions on the reasonable doubt standard of proof and the presumption of innocence. The participants who had been both randomly assigned to read the PTP article and to complete the paper-and-pencil voir dire were then randomly assigned to one of two possible instructions regarding the use of the PTP article during the trial: use the PTP (i.e., Group 2) or set the PTP aside (i.e., Group 3). In stage five, all of the participants read the same case summary involving manslaughter and grand theft then rendered a verdict. Last, the PTP-exposed participants completed a short post-verdict questionnaire that included questions about how they thought the PTP had influenced them during the trial.

Hypotheses

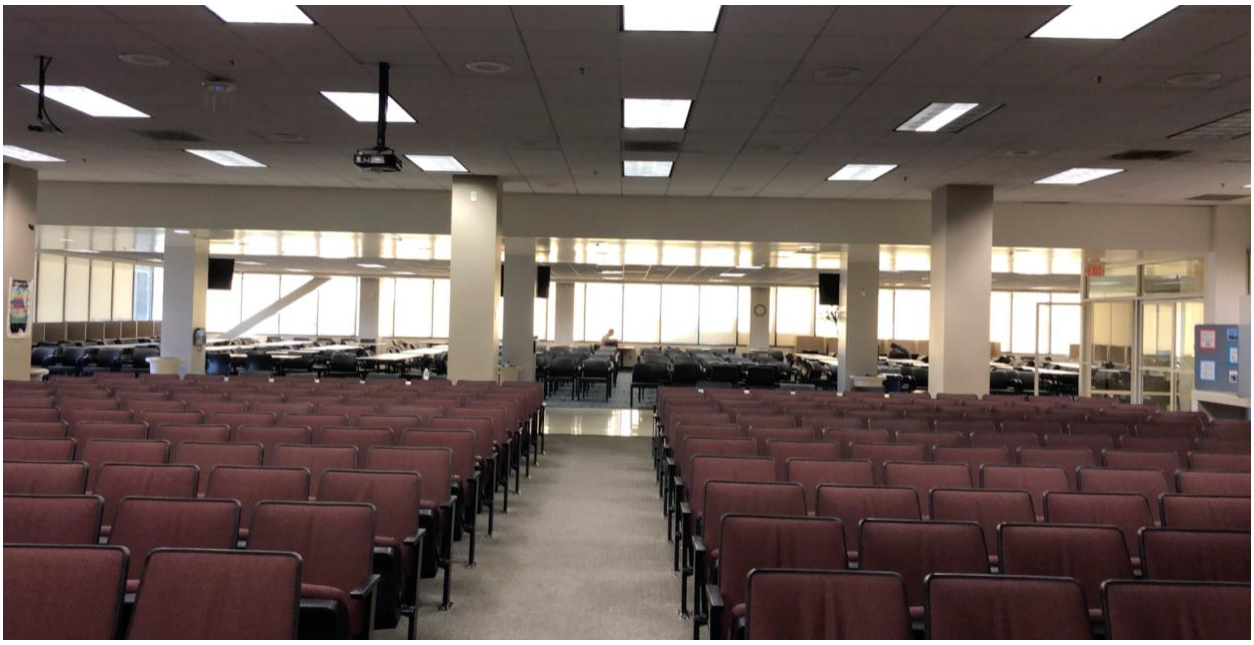
1. Participants will *convict* at a higher rate when they are exposed to PTP and when they are instructed to use the PTP during the trial.
2. A minority of the PTP-exposed participants will *admit* bias during voir dire.
3. PTP-exposed participants will *admit* bias at a higher rate on a paper-and-pencil questionnaire compared to an in-person interview.

4. All PTP-exposed participants will *convict* at the same rate, such that privacy, admitting bias, and the interaction term will not be significantly associated with verdicts.

Recruitment

Participants were drawn from a pool of venire jurors reporting for jury duty at the Superior Court of Orange County. Just before releasing the extra jurors who were not needed in a courtroom that day, a court employee announced that a study was being conducted that would last approximately 30 minutes, and those who volunteered to participate would be compensated $5 in cash (Appendix A). The study was advertised as a psychology experiment on judgment and decision making involving a series of short tasks and questionnaires. Participation was anonymous. Names or any other identifying information that could be used to match the participant's identity to their responses were not collected.

The venire jurors who agreed to participate completed the study in the jury assembly room. A picture of the room is included below. It can hold approximately 300 people and includes plenty of space, tables, and chairs to conduct the study activities. All participants completed the study individually. The second picture below shows a sample of the participants working through the study materials. The data were collected each week Monday through Thursday between January and March of 2019.



The jury assembly room

Venire jurors completing the study materials in the jury assembly room.

Materials and Procedure

Balanced Inventory of Desirable Responding (BIDR; Paulhus, 1984)

All participants first completed the BIDR, which measures individual differences in the tendency to engage in socially desirable responding and includes a subscale for impression management (IM) and self-deception (SDE). The scale was administered first because it allows the participants to start working on the study materials in the long line for jury duty checkout. Additionally, it gave the research assistants more time to recruit before they needed to start supervising the participants during the distraction task (who often used their phones to look up words, tried to look ahead in the study material packet, or tried to skip the in-person interview).

The BDIR is comprised of 40 statements for which participants rate their agreement on a 1 (Not True) to 7 (Very True) scale (Appendix B). Examples of IM items are "I never cover up my mistakes" and "I have taken sick-leave from work or school even though I wasn't really sick" (reverse coded). Examples of SDE items are "I am a completely rational person" and "I have not always been honest with myself" (reverse coded). Scores were created by giving one point for each extreme answer (rating of 6 or 7) and taking the sum (Paulhus, 1984, 1988). Those with higher scores are more likely to present a positive self-image by overreporting self-performance on desirable behaviors and under-reporting undesirable behaviors.

Table 5.1 shows the descriptive and reliability analyses for the two subscales and the combined overall score. The mean for the impression management subscale was slightly below that reported by a sample of religious adults (M = 8, SD = 3; Quinn, 1989) and slightly above the mean reported by an undergraduate sample (M = 5, SD = 3; Paulhus, 1984). For the self-deception subscale, the mean was slightly below the religious adults and undergraduates, both of

which were approximately 7.0 (*SD* = 3; Paulhus, 1984; Quinn, 1989). The impression management and self-deception subscales were significantly correlated ($r = .366$, $p < .001$).

Table 5.1

Descriptives and reliability analyses for participant's BIDR scores.

	Impression Management	Self-Deception	Combined
Mean (SD)	6.5 (4.0)	5.6 (3.4)	12.1 (6.2)
Cronbach's α	0.70	0.80	0.82

Exposure to Pretrial Publicity (PTP)

Participants read a cover story stating that the purpose of the second task was to get their reactions to a recent newspaper article. Participants who were randomly assigned to PTP read a newspaper article containing negative information about a defendant in a pending criminal case, John Dennis. The newspaper article described Mr. Dennis as callous and short-tempered with a history of escalating violence, including domestic violence, animal cruelty, and bar fights. The article accused him of brutally murdering a security guard who was a husband and father of a newborn. Participants randomly assigned to the no-PTP comparison group read an article irrelevant to the case. It described an interview with a police commissioner in which he chastises a bank in a big city for prioritizing decorating schemes over increased security measures that would help prevent robberies. Participants wrote short reactions to the articles as part of the cover story and answered one comprehension check question to ensure that they read the article (Appendix C).

Before moving on to voir dire, participants completed a distraction task comprised of several verbal analogies. Each question presented two words and participants are asked to select the word pair with the corresponding relationship. The distraction task took participants approximately 5 to 10 minutes to complete.

Voir Dire

The next part of the experiment was the mock trial. Participants were told that they would be mock jurors in a criminal case and that the first task was jury selection (Appendix D).

Standard juror questionnaire. The set of questions that were asked during voir dire was adapted from templates that are available online from the United States Courts (uscourts.gov). Participants provided general background information, including their age, racial/ethnic background, political affiliation, and occupation. All participants also were asked about what news sources they regularly consult as well as their hobbies and sources of entertainment (e.g., television, reading, social media).

The second set of questions in the standard questionnaire asked about any relevant experiences, including whether they had ever served on a jury or worked in law enforcement (self or immediate family members). Then participants were told the name of the defendant, the charges against him, the fact that a security guard was murdered, and that all of the cash was stolen from a safe in the same room. They gave a yes or no response indicating whether they had ever been involved in any capacity (e.g., party, witness, juror) in a case with similar circumstances or charges as the case in the mock trial. At this point, voir dire concluded for the participants who read the irrelevant newspaper article (i.e., Group 1).

Admitting bias. The PTP-exposed participants (i.e., Groups 2, 3, & 4) were asked one more question during voir dire (yes or no only): "Did the article that you read at the beginning of this packet cause you to form a fixed opinion about the guilt or innocence of John Dennis such that you could not be a fair and impartial juror in this case?" (adapted from *Irvin v. Doud*, 1961; *Mu'Min v. Virginia*, 1991; *Patton v. Yount*, 1984; *Skilling v. U.S.*, 2010). Participants who say yes are admitting bias, and participants who respond no are saying they are impartial.

Privacy during voir dire. PTP-exposed participants completed voir dire either through a paper-and-pencil questionnaire (i.e., Group 3) or an in-person interview with a research assistant who recorded their responses on an answer sheet (i.e., Group 4). Participants in Groups 1 and 2 (i.e., no-PTP and use-PTP) completed only the standard juror questions through a paper-and-pencil questionnaire.

There were four research assistants (RAs) who conducted the interviews, two males and two females. Their ages ranged from 22 to 26 years old. Two of the RAs were university graduates working in our research lab through a post-baccalaureate program. The third RA was an army veteran who had recently returned to college, and the fourth was a college senior. Participants randomly assigned to Group 4 were also randomly assigned to one of the research assistants for their in-person interview.

The RAs were trained on the procedure well in advance of data collection at the courthouse, as they had already been administering a laboratory (pilot test) version of the study with undergraduate participants. The RAs were trained to conduct each interview the same way every time. They were required to act and dress professionally and to stay on script. For example, if a participant asked an RA for clarification, the RA would repeat the same question speaking slower. Each RA also had a hard copy of the study protocol to use as a reference. Each RA was present for data collection 2 to 3 days per week.

The Trial

Next, all of the participants were informed that they had been impaneled as jurors on the present case.

Instructions. An additional PTP comparison group was created by manipulating judicial instruction on the use of the PTP article during the trial. Participants who had been randomly

assigned to both the PTP and the paper-and-pencil mode of voir dire were again randomly assigned to either use the PTP in their verdict decision (i.e., Group 2) or to set the PTP aside and base their verdict only on the evidence presented at trial (i.e., Group 3; see Appendix E). The participants in the in-person interview condition (i.e., Group 4) were also instructed to set the PTP aside during the trial. Group 1 (i.e., no-PTP) did not receive any instructions about the use of the PTP article. The rest of the instructions were the same for all of the participants. The set of instructions defined the two charges in the case, the beyond a reasonable doubt standard, the presumption of innocence, and also reminded the jurors that the witnesses who would testify were under oath.

Case summary. The participants then read a summary of a criminal case that was approximately 1,250 words long and rendered a verdict (Appendix F). The defendant, John Dennis, had pleaded not guilty to grand theft and involuntary manslaughter. An office building security guard was found dead, and all the cash had been stolen from the company safe. The evidence in this whodunit case is circumstantial and ambiguous. Previous research using these materials has yielded an average 50/50 split in verdicts (Simon & Scurich, 2011; Simon, Snow, & Read, 2004; Teitcher & Scurich, 2017). However, for the present study, the materials were modified to skew slightly in the defendant's favor. A reduced overall conviction rate should allow for more variance from the PTP bias. Similar studies have also used the same strategy (e.g., Sue, Smith, & Pedroza, 1975, Kerr et al., 1991). Pilot testing of the modified materials revealed 30% guilty verdicts overall.

Post-Verdict Questionnaire

The PTP-exposed participants (i.e., Groups 3 & 4) also reflected on how the PTP influenced their verdict decision. There were three questions with answer options that ranged on

a scale from 0 – 100% in increments of 10%: 1.) “How much did the article you read at the beginning of the packet influence your verdict?” 2.) “How much did you want the article to influence your verdict?” 3.) “How much would the article influence other juror’s verdicts?” Last, all participants were given the option to write open-ended comments about their experience or impressions of the experiment. After completing all of the study materials, the participants were thanked and compensated $5 in cash.

CHAPTER 6: RESULTS

Participants

Three hundred and eighty-two venire jurors participated in the present study (49% female) ages 18 to 79 (*M* = 40.6, *Median* = 37, *IQR* = 26). The sample was ethnically diverse: 44.5% identified as Caucasian, 21.5% Asian or Pacific Islander, 19.6% Hispanic or Latinx, 2.9% African American, 10.5% mixed or another ethnicity, and four participants (1%) did not specify their ethnicity. Politically, participants were 41.6% liberal, 20.2% moderate, 37.2% conservative, and 1% did not specify their political affiliation. Nearly one-quarter (24.1%) had an immediate family member or had themselves worked in law enforcement. One hundred participants (26.2%) had served on a jury before. Twenty-two participants (5.8%) answered yes when asked whether they had ever been involved in a case with similar circumstances or charges.

Participants reported a wide range of occupations, hobbies, and news sources. The responses were coded into major categories (see Table 6.1). Hobbies that involved games, sports, and fitness were coded as "play." Examples of hobbies that were coded as "arts" included music, reading, dance, movies, and crafts. The most common hobbies coded under the "other" category were cooking/food, travel, shopping, and relaxing. For news sources, 48% of the participants reported following one medium (e.g., newspapers, social media, or magazines). Interestingly, 13% said that they did not follow the news. Another 10% provided an unintelligible response to the question (e.g., internet, books, religion).

Seventeen percent (*n* = 65) of the sample was removed for failing the PTP article comprehension check questions. Additionally, four participants were dropped because they left the check question blank. Eight participants were dropped because they either did not provide a verdict or a self-report of bias. The following analyses are based on a total sample of 305 jurors.

Table 6.1

Frequencies for occupations, hobbies and news sources

Category	%	n
Occupation		
Managers	12	46
Professionals, Technicians	37.4	143
Clerical, Administrative	4.7	18
Service and Sales	19.6	75
Craft, Trade, Operators, Assemblers	5.5	21
Self-Employed	1.6	6
Student	7.9	30
Retired, Unemployed, Homemaker	9.9	38
Missing	1.3	5
Hobbies		
Play	26.7	102
Arts	14.4	55
Family and Friends	1.8	8
Other	13.5	51
2 Categories	35.6	136
3 Categories	6.9	26
All Categories	1.1	4
News Sources		
Newspapers	12.6	48
Magazines	10.5	40
TV News	5.5	21
Radio	2.1	8
Social Media, Blogs	17.3	66
Other	6	23
2 Categories	19.9	76
3+ Categories	2.9	11
None	13.1	50
Missing	10.2	39

Note. $n = 382$

Results for Hypotheses 1 – 4

Hypothesis 1: Participants will *convict* at a higher rate when they are exposed to PTP and when they are instructed to use the PTP during the trial.

The first hypothesis examined whether exposure to the PTP impacted participant's verdicts. The conviction rates between the groups were compared at each branch of the study design (Fisher's Exact Test, one-sided). Figure 6.1 shows a flowchart of the study design and reports the conviction rates. The comparisons for each stage are discussed in detail below.

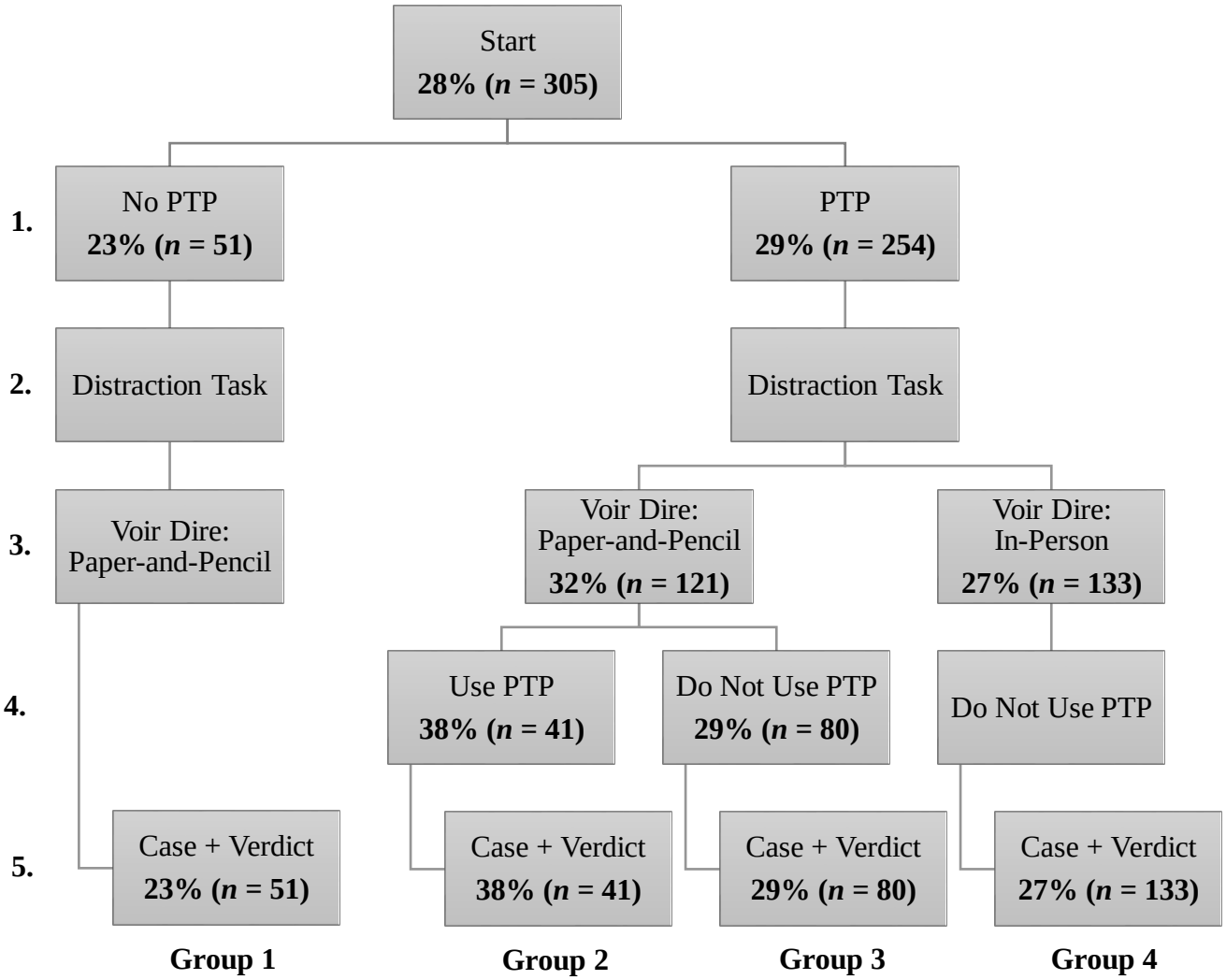


Figure 6.1. Represents a flow chart of the study design with the conviction rates at each stage and the total number of participants in each cell in parentheses.

Collapsing across all groups (n = 305), the overall conviction rate was 28%. At stage one, we compared the conviction rates between the participants who were exposed to the PTP (i.e., Groups, 2, 3, & 4 combined) and those who were not (i.e., Group 1). The comparison was not statistically significant (p = .24). In the second stage, all participants completed a distraction task. Their responses in the distraction task were not analyzed because they are not relevant to the hypotheses. In stage three, we narrowed the sample to only the PTP-exposed jurors (n = 254) and examined their verdicts as a function of privacy during voir dire. There was no signficant difference in conviction rates between the participants who were questioned in a paper-and-pencil questionnaire compared to an in-person interview (p = .20).

Fourth, narrowing the sample further to only those who were exposed to PTP and were questioned on a paper-and-pencil questionnaire (n = 121), we compared the difference between the two instruction types (i.e., use the PTP or do not use PTP). This difference was also not significant (p = .17). Finally, for stage five, we compared the differences in the four final groups. The largest effect was the 15% difference between Groups 1 (i.e., no-PTP) and 2 (i.e., use-PTP), but it did not reach statistical significance (p = .097). Thus, the PTP bias was not as strong as hypothesized. Possible reasons for this are discussed in the first section of Chapter 7.

Hypothesis 2: A minority of the PTP-exposed participants will *admit* bias during voir dire.

The next analysis examined the rate at which jurors admitted bias during voir dire. In line with previous research, only a minority of the PTP-exposed participants said that it fixed their opinion of the defendant's guilt such that they could not be fair and impartial in this case. Collapsing across privacy during voir dire (i.e., Groups 3 & 4 combined), 30% (n = 64) said that they were biased.

Additionally, an exploratory analysis was conducted to determine whether any of the demographic variables predicted juror's self-reports during voir dire. Admit bias was entered as the dependent variable in a binary logistic regression, with age, gender, ethnicity (categorical), political affiliation, occupation (categorical), number of news source categories, prior jury service, and employment in law enforcement as the independent variables. The model was not significant, $\chi^2(17) = 15.0$, $p = .60$. None of the variables were significantly associated with participants self-reports of bias (prior jury service $p = .08$, all other ps $> .23$).

Hypothesis 3: PTP-exposed participants will *admit* bias at a higher rate on a paper-and pencil questionnaire compared to an in-person interview.

The next analysis tested whether the modality of voir dire influenced the participant's self-reports of bias during voir dire. First, we compared the rate at which PTP-exposed participants admitted bias when asked either on a paper-and-pencil questionnaire (i.e., Groups 2 & 3) or an in-person interview (i.e., Group 4). The participants who were not exposed to PTP (i.e., Group 1) were not included in this analysis because they were not asked to self-diagnose their bias during voir dire. It was predicted that, compared to an in-person interview, participants would be more likely to admit bias when their responses were more private (i.e., paper-and-pencil questionnaire). However, a chi-square exact test revealed no significant differences ($p = .46$). Thirty percent of participants questioned in an in-person interview admitted bias, and those who answered on paper admitted bias at a rate of 29%. The rate of participants admitting bias also did not differ ($p = .44$) when comparing Group 2 (i.e., use-PTP; 27%) and Group 3 (i.e., do not use PTP; 30%). These data appear to indicate that either the participants did not experience a social desirability bias, or the privacy manipulation failed to influence juror's self-reports.

Second, an additional test of the effect of socially desirable responding examined whether individual differences in response tendencies were associated with self-reports. A binary logistic regression was conducted with overall BIDR scores as the independent variable and admitting bias as the dependent variable. It was hypothesized that higher BIDR scores would be negatively associated with admitting bias, where participants prone to socially desirable responding would be less likely to admit bias during voir dire. However, the model fit was not significant ($\chi^2[1] = 1.33$, $p = .25$), and individual differences in response tendencies were not associated with participant's self-reports of bias during voir dire ($p = .25$).

Hypothesis 4: All PTP-exposed participants will *convict* at the same rate, such that privacy, admitting bias, and the interaction term will <u>not</u> be significantly associated with verdicts.

In the fourth analysis, we examined the relative accuracy of PTP-exposed participant's self-reports during voir dire. It was hypothesized that the privacy manipulation would increase the participant's candidness, but that self-reports still would be unrelated to verdicts in both privacy conditions (i.e., paper-and-pencil questionnaire or in-person interview). However, the previous analysis revealed that privacy did not affect participant's self-reports. Nevertheless, we still expected to find support for the fourth hypothesis.

It was hypothesized that there would be no relationship among self-reports of bias, privacy during voir dire, and verdicts. To test this, a binary logistic regression was conducted with verdict decisions as the dependent variable and privacy during voir dire, admitting bias, and the interaction term as the independent variables, also controlling for overall BIDR scores. Figure 6.2 reports the conviction rates for each group. The model was significant ($\chi^2[4] = 18.39$, $p = .001$). There was no significant effect for privacy during voir dire (*Wald*[1] = 0.38, $p = .54$), the interaction between privacy and admitting bias (*Wald*[1] = 0.17, $p = .68$), nor the BIDR

covariate (*Wald*[1] = 0.05, *p* = .83). However, the main effect for admitting bias was significant (*Wald*[1] = 10.13, *p* = .001). Participants who admitted bias were 3.9 times more likely to convict than participants who said during voir dire that they could be impartial (*95% CI* [1.7, 8.9]). In other words, contrary to the hypothesis, self-reports of bias during voir dire were significantly associated with verdict decisions. Collapsing across the privacy during voir dire, nearly half of the participants who admitted bias convicted (48%) whereas the conviction rate for the participants who said they were impartial was 21%.

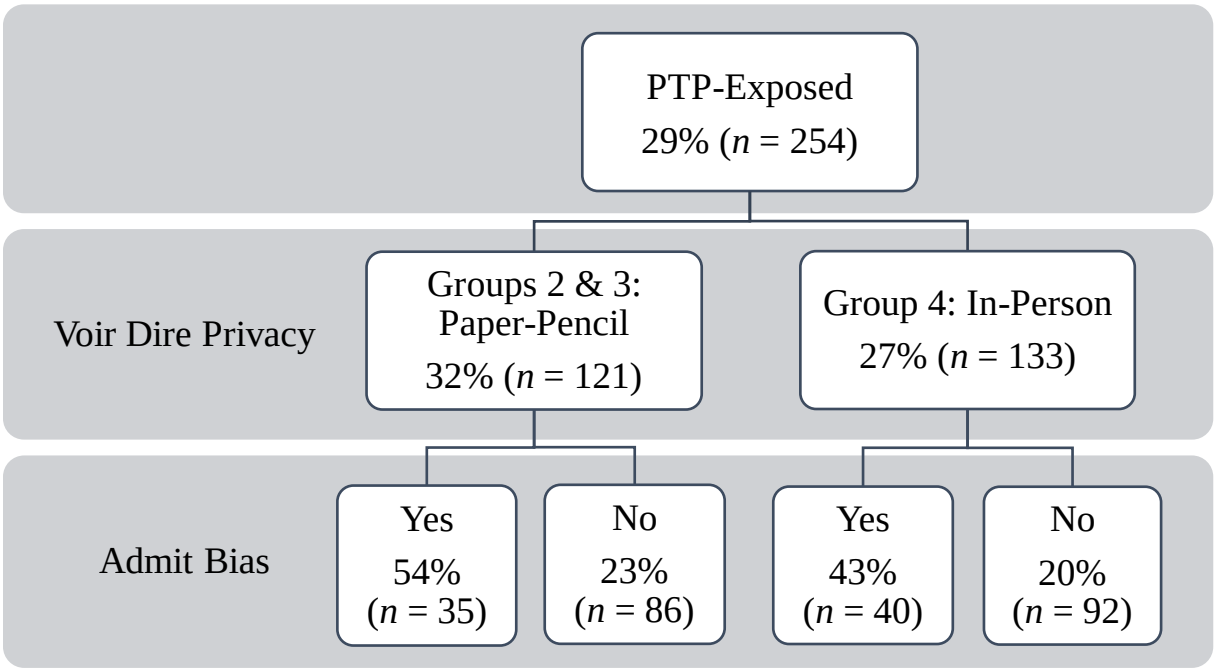


Figure 6.2. Conviction rates as a function of voir dire privacy and admit bias, controlling for overall BIDR score, for the sample of participants who read the PTP article. The number of participants in each cell is in parentheses.

Next, we conducted a second analysis to test whether there was an effect of the instructions (i.e., use the PTP or do not use PTP) on the accuracy of the participant's self-reports. Verdict was entered as the dependent variable in a binary logistic regression with instruction, admitting bias, and the interaction term as the independent variables. Figure 6.3 reports the

conviction rates for each group. The model was significant ($\chi^2[3] = 13.11$, $p = .004$). Similar to the previous analysis, there was a significant main effect for the admit bias variable (*Wald*[1] = 9.90, $p = .002$, *Exp[B]* = 5.44, *95% CI* [1.9, 15.6]). The main effect for instructions ($p = .11$) and the interaction between instructions and admitting bias ($p = .36$) were not significant. In other words, the participant's self-reports were accurate regardless of whether they were instructed to use the PTP or set it aside.

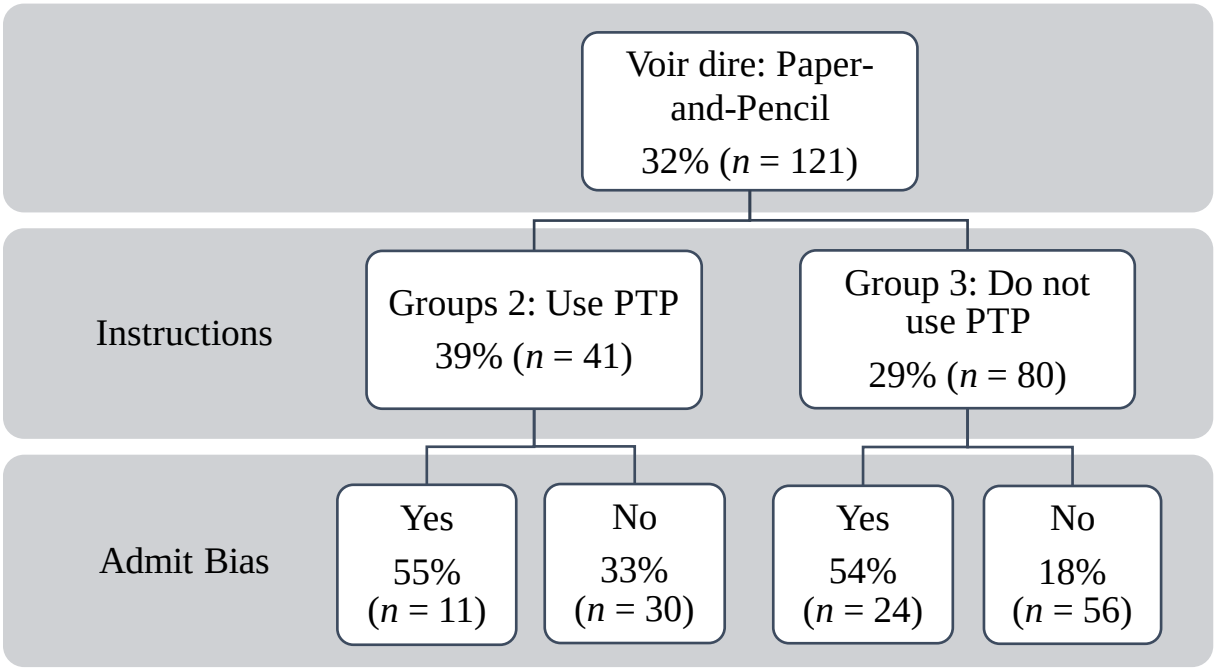


Figure 6.3. Conviction rates as a function of instruction and admit bias for the sample of participants who read the PTP article and completed voir dire through a paper-and-pencil questionnaire. The number of participants in each cell is in parentheses.

The last test of the accuracy of the PTP-exposed participant's self-reports compared their conviction rate to the group who did not read the PTP (i.e., Group 1) and the group that was instructed to use it (i.e., Group 2) comparison groups. Fisher's Exact Test (one-sided) revealed that the participants who said they were impartial convicted at the same rate (21%) as the no-PTP Group 1 (23%, $p = .29$) and significantly lower than the jurors who used the PTP in Group 2

(38%, $p = .01$, $\phi = .19$). Additionally, verdicts did not significantly differ between the jurors who admitted bias (48%) and Group 2 ($p = .25$). In other words, the participants who said they were impartial convicted at the same rate as the "ideal" jurors who had no PTP exposure, and those who admitted bias convicted at the same rate the "unfit" group who used the PTP in their decision. Overall, these results suggest that the venire jurors made relatively accurate self-reports during voir dire.

Post-Verdict Questionnaire

PTP-exposed participants were also asked to reflect on their verdict decisions and the effect of the PTP after the trial. First, the participants indicated the extent to which they *wanted* the PTP to influence them. An independent samples t-test revealed that participants who admitted bias during voir dire wanted to be influenced by the PTP at a significantly higher rate (49%) than those who said they would be impartial (22%), $t(211) = -5.80$, $p < .001$. When asked how much the PTP *actually did* influence them, a t-test revealed again that participants who admitted bias reported higher rates of actual bias (56%) than participants who said they would be impartial (23%), $t(211) = -7.56$, $p < .001$. This pattern also held when examining verdicts. Compared to participants who chose to acquit, those who convicted had significantly higher ratings of wanted and actual bias ($t[211] = -2.84$, $p = .005$ and $t[211] = -4.71$, $p < .001$, respectively).

To determine the extent to which the participants felt that the PTP had an *unwanted* influence on their decisions, the percent which they said they wanted to be influenced by the article was subtracted from the percent which they said the article did influence them (following the approach of Thompson, Fong, & Rosenhan, 1981). On average, PTP-exposed participants reported that they did not experience any unwanted influence from the article, ($M = 0$, $SD =$

33%, *Median* = 0, *Mode* = 0). Independent samples t-tests revealed that perceptions of unwanted bias did not vary significantly as a function of admitting bias (*Levene's test* = 5.39, $p = .02$; $t[105] = 1.08$, $p = .29$) or their verdict decision ($t[211] = 1.60$, $p = .12$). Thus, these data suggest that PTP-exposed participants tended to make an accurate self-diagnosis both during voir dire and after the trial.

Qualitative Analysis

An additional exploratory analysis was conducted to shed more light on the unexpected findings regarding 1.) the lack of effect of PTP on verdicts and 2.) the significant association between self-reports and verdicts. The participant's open-ended reactions to the PTP article were coded for several themes to gain more insight about how it affected them. One set of codes referred to participant's anti-defendant opinions: a.) he is a dangerous and violent person, b.) he is probably guilty, c.) his previous convictions are relevant, d.) the state failed the victim by not supervising the defendant enough, e.) the story makes me emotional (e.g., sad, angry) and sympathetic for the victim. Another set of codes referred to mitigating factors mentioned by the participants: f.) suspicious of the article's credibility, g.) he probably had a bad childhood and the state failed him, h.) his previous convictions are not relevant.

A binary logistic regression with the variables above entered as the independent variables and admit bias as the dependent variable was conducted, and the model was significant ($\chi^2[8] = 27.74$, $p = .001$). The only significant predictor was perceptions of the article's credibility, *Wald*(1) = 14.53, $p < .001$. Participants who mentioned that they thought the article was too one-sided against the defendant were 5.4 times more likely to say during voir dire that they were still impartial (*95% CI* [2.3, 13.0]. The same pattern was revealed when verdict was entered as the dependent variable as well. The model was significant ($\chi^2[8] = 18.53$, $p = .018$). Participants

who held this opinion were 2.6 times more likely to find the defendant not guilty (*95% CI* [1.3, 5.4]. Thus, the participants who were suspicious of the article's credibility were more likely to maintain that they were not biased and acquit the defendant.

CHAPTER 7: DISCUSSION

Voir dire assumes that potential jurors will 1.) self-diagnose bias accurately and 2.) report on their biases honestly. The present study tested these two assumptions. It was hypothesized that venire jurors could not accurately self-diagnose their PTP bias. We also hypothesized that increasing the jurors' candidness about their PTP bias during voir would not, in turn, increase the accuracy of their self-reports. This finding would have indicated that jurors are underreporting bias because they lack awareness of it as opposed to being unwilling to disclose it.

The first set of analyses examined how exposure to pretrial publicity biased juror's verdicts relative to a group who had no PTP exposure (i.e., Group 1). PTP bias was tested in two ways: one group was told to set the PTP aside and the other group was told to use it during the trial. Second, the rate at which the jurors admitted PTP bias during voir dire was examined. The third set of analyses determined whether juror's self-disclosures were associated with privacy during voir dire. Fourth, the relationship between juror's self-disclosures during voir dire and conviction rates was examined. This chapter will evaluate the findings from each set of analyses.

The Effect of Pretrial Publicity on Verdicts

The present study experimentally manipulated venire jurors' exposure to pretrial publicity to induce an anti-defendant bias. The jurors who read the PTP (i.e., collapsing across Groups 2, 3, & 4) only convicted at a slightly higher rate than those who had read the irrelevant article. While in the expected direction, this difference was not statistically significant. The next comparison added the distinction between the instructions about the PTP (i.e., Group 1: no-PTP, Group 2: use-PTP and Group 3-4: do not use PTP). As hypothesized, jurors who did not read the PTP (i.e., Group 1) had the lowest conviction rate (23%). Those who were told to use the PTP during the trial (i.e., Group 2) had the highest rate (38%). And the jurors who were required to

set the PTP aside (i.e., Groups 3 & 4 combined) convicted at a rate in between Groups 1 and 2 (27%). Again, however, the differences between the three groups did not reach statistical significance. Thus, the effect of the PTP bias on juror's verdicts was trivial in size.

As a general matter, PTP tends to have only a small biasing effect of verdicts. For instance, a meta-analysis (Steblay, Besirevic, Fulero, & Jimenez-Lorente, 1999) involving nearly six-thousand participants that examined the effect of PTP on verdicts reported a small overall effect (r = .16). On average, exposure to PTP was associated with a 14% increase in the conviction rates (p. 223). Similarly, in the study conducted by Kerr et al. (1991) that examined potential remedies for PTP bias that may be implemented during voir dire, exposure to PTP did not significantly increase the juror's pre-deliberation verdicts. The PTP had a significant influence only after deliberations.

There are some potential explanations for why the effect of the PTP was non-significant in the present study. First, it is possible that some jurors were not sold on the article's negative portrayal of the defendant. Upon examination of the participant's written reactions to the PTP, a reoccurring theme emerged (among 30% of the PTP-exposed jurors) involving suspicion of the newspaper article's credibility. For example, many of the jurors commented that the article was too one-sided against the defendant, was presumptive and lacked reliable evidence, and likely did not tell the whole story. Thus, for at least a minority of the jurors, their perceptions of the article's credibility may have reduced the impact of the bias.

Another potential explanation for the weaker effect is the content in the PTP. In the present study, the story focused on the gruesome details of the crime, the defendant's prior record of escalating violence, and emotional content (e.g., the victim was a new father; the defendant physically and verbally abused his family). Regarding his prior history of offending,

previous research indicates that this type of content is susceptible to motivated reasoning. In other words, it could be that only the jurors with strong beliefs about the relevance of prior offending were swayed by this information.

Support for this potential explanation comes from a study conducted by Locatelli (2011), in which undergraduate participants were exposed to PTP that contained different types of content, including prior conviction, a confession, resisting arrest, or neutral information. Their attitudes about the informativeness of this information was measured as well. Interestingly, the prior conviction information was the only type of PTP content where the juror's interpretations were influenced by their preexisting attitudes. Those who felt that prior convictions were an irrelevant indicator of guilt actually had a lower conviction rate than those who read the neutral PTP content. On the other hand, those who believed that it was relevant information were significantly more likely to convict compared to the neutral PTP content. Notably, this the only instance where the PTP significantly increased verdicts. All of the other types of PTP content only influenced the juror's ratings of the likelihood of guilt. Therefore, it could be that the jurors in the present study were selectively influenced by the prior conviction information, wherein jurors with preexisting beliefs that such information is probative would be particularly biased by it. Conversely, jurors who do not believe that prior conviction information is relevant would not be influenced by it at all.

The PTP bias may have been strengthened if we had increased the number of newspaper articles. There is some previous research that has shown that increasing the quantity of the PTP significantly increases guilty verdicts (e.g., Daftary-Kapur, Penrod, O'Connor, & Wallace, 2014). Additionally, given the finding that many jurors were suspicious of the PTP article, we could have also provided more content about the defendant that was less incriminating. Some of

the jurors may have found the PTP to be more persuasive if the newspaper article had acknowledged that there were two sides to the story.

Finally, we may have strengthened the effect by including factual PTP, which is information excluded from the trial that is potentially relevant, in addition to the emotional PTP. However, in a recent literature review, Ruva (2018) concluded that emotional PTP tends to bias jurors more than factual PTP. For example, in the study by Kramer, Kerr, and Carroll (1990) that evaluated the effectiveness of various voir dire safeguards meant to reduce PTP bias, the strength of the effect varied based on the type of PTP that jurors read. The juror's experienced a stronger and longer-lasting bias when exposed to the emotional PTP that evoked anger and sadness but did not include information with evidentiary value.

The Effect of Privacy During Voir Dire on Self-Reports of Bias

The present study employed the same procedure that the courts use in voir dire to detect PTP bias (*Mu'Min v. Virginia*, 1991; *Skilling v. U.S.,* 2010). That is, the venire jurors exposed to pretrial publicity were asked if it had biased them such that they could not be fair and impartial. Overall, a majority of the jurors (70%) indicated that they were not biased. These findings replicated the rates found in similar studies (Chrzanowski, 2006; Kerr et al., 1991; Moran & Cutler, 1991; Sue, Smith, & Pedroza, 1975). The next question, then, is whether the modality of questioning affects the rate at which juror's admit bias.

Researchers have long been concerned about dishonest jurors compromising the integrity of voir dire (e.g., Broeder, 1964; Seltzer, Venuti, & Lopes, 1991). Thus, the present study examined the possibility that venire jurors are more biased than they report in a public setting responding to questions posed by another individual. Perhaps more jurors would disclose that they are biased if questioned anonymously. This was tested by varying the level of privacy

during voir dire. We chose to manipulate privacy because one of the most popular methods of encouraging honesty in survey research involving personal, potentially intrusive questions is to provide more anonymity (Tourangeau, Rips, & Rasinski, 2000). The benefits of anonymity are intuitive. When a person's responses cannot be linked back to her, then there is no risk of being impolite, sanctioned, or stigmatized. By eliminating these risks, the jurors should have no reason underreport their biases to the court.

However, the proportion of venire jurors admitting bias was nearly identical between the paper-and-pencil and the in-person voir dire self-report methods. Thus, there was no evidence that jurors were distorting their self-reports during voir dire based on privacy. Whether they were more accurate on-paper compared to in-person is a separate issue that we address in the next section. The non-significant effect of privacy on self-reports in the present study is inconsistent with both the broader social psychological literature on survey response (e.g., Richman et al., 1999; Tourangeau & Yan, 2007) as well as the limited available research on voir dire (e.g., Neitzel & Dillehay, 1982).

It is unclear why the privacy manipulation did not influence juror's self-reports in the present study, but there are several potential explanations. First, the PTP bias may not have been a "sensitive" enough topic to cause jurors to underreport bias (Tourangeau, Rips, & Rasinski, 2000). For instance, the newspaper article highlighted several undesirable aspects of the defendant's character such as verbally and physically abusing his wife and dog. The jurors who admitted bias might have felt no need to hide their distaste. They may have even felt a sense of pride saying that they were biased against the defendant, as if saying they were still impartial would implicitly endorse his bad character.

A second possibility is that the interviewer characteristics were not salient enough to influence juror's self-reports in the present study. For instance, the mean age of the research assistants (24 years) who conducted the in-person voir dire was lower than the venire juror sample (40 years). All of the research assistants were current or recent college undergraduates. It is also conceivable that the research assistants, while serious, also came off as polite, agreeable, and warm. These qualities are unlike those that tend to inhibit people's behaviors and provoke socially desirable responding (e.g., high status and dominance, social and emotional distance; Fiske, Cuddy, & Glick, 2006; Suggs & Sales, 1980). Therefore, it could be that the opposite of the intended effect occurred instead, and participant's inhibitions were actually lowered in the in-person interviews.

Additionally, the participants in the present study knew that they would not see or interact with the interviewers again in the future. Some research suggests that survey respondents may still be candid when interviewed by someone who they do not know or who cannot spread the information to other people in their network (Tourangeau & Yan, 2007). Moreover, the jurors who participated knew that the project was related to the local university. The jurors may have been less suspicious or concerned with an educational institution compared to the government and other agencies (Tourangeau, Rips, & Rasinski, 2000). As a result, they may have been more motivated than usual to be forthcoming with the research assistants about their bias.

Another potential explanation is that the mode of administration (i.e., questionnaire or interview) was not public enough to influence the juror's self-reports. For instance, a study by Neitzel and Dillehay (1982) found that jurors were more candid about their potential biases when they were questioned individually compared to in a group setting. It could also be that privacy is less likely to affect juror's self-reports compared to other types of contextual changes during voir

dire. For example, Chrzanowski (2005) found that participants were more likely to admit bias when they were questioned on the phone at home compared to being questioned at the courthouse. Additionally, results from Jones (1987) showed that jurors in attorney-conducted voir dire were more consistent in their reports of bias than judge-conducted voir dire.

However, other characteristics of voir that theoretically should influence self-disclosures of bias have not been supported empirically (e.g., formality and seriousness of the situation; Jones, 1987; Marshall & Smith, 1986). There are also several other untested features of voir dire that legal researchers have speculated could influence self-disclosures of bias, such as variations in the way that the question for eliciting bias is phrased (e.g., Hans & Jehle, 2003; Suggs & Sales, 1980). In all, there is not enough data to determine conclusively which situational characteristics of voir dire are most likely to influence jurors' self-reports of bias. More research is needed to help clarify why the juror's self-reports were not influenced by the increased privacy in the present study.

The Relation Between Self-Reports During Voir Dire and Verdicts

To summarize, the present study found that only a minority of venire jurors (30%) who had been exposed to pretrial publicity admitted that they were biased by it. Contrary to the hypothesis, disclosures of bias did not increase when the venire jurors were afforded more privacy. The final set of analyses examined the relative accuracy of the jurors' self-reports.

It was hypothesized that the jurors would not accurately self-diagnose PTP bias. As a general matter, the social psychological literature indicates that people cannot consciously observe most of their decision-making processes and are not aware of how biasing influences impact judgments (e.g., Nisbett & Wilson, 1997; Wilson & Brekke, 1994). If the juror's self-reports had been unrelated to verdicts as hypothesized, then the conviction rates across all of the

groups would be equal. In other words, we expected to find no significant differences between the jurors who admitted bias and those who maintained they were not biased in both modes of voir dire (i.e., the paper-and-pencil questionnaire and in-person interview).

Instead, the data revealed a strong association between self-reports and verdicts. The venire jurors were equally accurate in both privacy conditions (i.e., questionnaire and interview). First, collapsing across the level of voir dire privacy, nearly half of the jurors who admitted bias (48%) later rendered a guilty verdict, whereas the conviction rate among the jurors who said they were still impartial was only 21%. Second, the jurors who said they were impartial convicted at the same rate as the group that did not read the PTP (i.e., Group 1, 23%), and those who said they were biased convicted at the same rate as the comparison group that used the PTP during the trial (i.e., Group 2, 38%). These findings indicate that juror's self-reports during voir dire were fairly accurate.

To help verify further that the jurors were accurate in their self-reports, we assessed their awareness of any unwanted PTP bias that may have influenced their verdict decision. After the trial, the PTP-exposed jurors reflected on their how their verdicts were influenced by the pretrial publicity. Overall, the juror's post-trial responses corresponded with their self-reports during voir dire. The jurors who said during voir dire that they were not biased also maintained after the trial that they had been impartial, and they were indeed less likely to convict the defendant relative to the two biased groups (i.e., Group 2 and jurors who admitted bias). The jurors who admitted bias were also consistently accurate. They admitted bias both during voir dire and after the trial, and this group had the highest conviction rate.

These results from the present study are not consistent with the two prior studies that also examined the relationship between disclosures in voir dire and verdicts and found no significant

association discussed in Chapter 2. In the study by Sue, Smith, and Pedroza (1975), the conviction rate among those who said they were impartial (53%) was still more than two times the rate of the mock jurors who read the neutral PTP (23%) even after removing the mock jurors who admitted bias. Recall that the present study found conviction rates of 21% and 23%, respectively.

There are several differences between this and the present study that may have contributed to the inconsistent findings (e.g., undergraduate compared to venire juror samples). The most important difference is the group to which the PTP-exposed jurors are compared in each study. In Sue et al. (1975), the story in the "neutral" PTP article stated that a gun found in the defendant's possession did not match the murder weapon. However, this article is more accurately classified as "pro-defendant" PTP because it provides exculpatory evidence (Ruva, 2018). In the present study, the comparison group of jurors (i.e., Group 1) read a newspaper article that was irrelevant to the case; it was neither pro- nor anti-defendant. Thus, the discrepant findings between Sue et al. (1975) and the present study could be explained by differences in the comparison groups.

The second study (Kerr et al., 1991) is less informative because it was designed to examine a separate issue, which was to evaluate the efficacy of various safeguards against PTP bias that can be implemented during voir dire. Unfortunately, the finding relevant to the present study is reported only briefly and is challenging to interpret. The researchers mention that the association between juror's self-reports of bias and verdicts was not significant. All of the jurors convicted at the same rate regardless of whether they said during voir dire that they were biased, probably biased, or impartial. However, the accuracy of the self-reports cannot be determined fully without distinguishing between the jurors who were exposed to the biasing PTP and those

who were impartial (i.e., no PTP exposure). Therefore, the existing research does not present enough information, nor did it use a sufficiently similar design to determine whether the present findings or the extant findings are "correct." Clearly, this issue requires further study.

Another reason that the jurors were more accurate in the present study may have to do with evolving perceptions of news. The number of one-sided, partisan media outlets has increased with the dividing political climate. Perhaps as a result, people are increasingly aware of bias—in other people at least (e.g., Ditto et al., 2019). The newspaper article in the present study was obviously a one-sided attack on the defendant. It is possible that the tone of the PTP article made people suspicious of its credibility. Indeed, exploratory analyses showed that the jurors who mentioned that the newspaper article was too biased against the defendant were more likely to say they were impartial and to find the defendant not guilty in the trial. If the jurors decided that the newspaper article was too biased to be believed (as some of the venire jurors put it, "fake news"), then they may have been able to discount its message more easily (Kassin & Sommers, 1997; Lieberman & Arndt, 2000). More research is needed to determine if this is the true cause of the reduced effect of the PTP on verdicts.

However, there is previous research to help support this explanation. For example, Fein, McCloskey, and Tomlinson (1997) provided half of their PTP-exposed jurors with a reason to be suspicious of the motives and intentions behind the PTP and question whether the information was misleading or false. To induce suspicion, jurors in this group read an additional newspaper article in which the defense attorney accused the prosecutor of planting the story to bias public opinion. The defense attorney also said that the media outlet manipulated the information to sell papers by leaving out key facts to tell only one side of the story. Reading this second article reduced the conviction rate of PTP-exposed jurors to be equal to those who were not exposed to

the PTP. The findings also showed that inducing suspicion more effectively reduced PTP bias compared to judicial instructions. Collectively, the data indicate that one potential explanation for why some of the jurors who indicated they were impartial in the present study were correct because their suspicion about the pretrial publicity's credibility reduced the biasing effect.

It is practically guaranteed that venire jurors who admit bias will be excused from the case for cause. Thus, as a practical matter, there is no need to be too concerned about the jurors who admit bias in voir dire conducted for an actual trial. However, another interesting finding from the present study was that the jurors who admitted bias had a conviction rate that was 9% higher than the jurors who were instructed to use the PTP (i.e., Group 2), although this difference was statistically not significant. After the trial, the jurors who admitted bias said that they wanted to be and were influenced by the PTP. These findings suggest that the jurors who admitted bias did not attempt to control it, as the evidence indicates that they ignored the instructions to set the PTP aside during the trial. Future research might examine why the instruction did not influence the jurors who admitted bias.

For example, one possibility could be that the process of making a self-diagnosis and reporting it to the court may influence juror's cognitive processing during the trial and eventual verdict decisions. Previous research has also shown that explicitly stating one's theory can potentially commit the person to that opinion and magnify the effect of the bias (Anderson, Lepper, & Ross, 1980). In one study conducted by Freedman, Martin, and Mota (1998), undergraduates were exposed to either biasing or neutral PTP and either did or did not rate the likelihood that the defendant was guilty. The participants who were asked to make a prejudgment and decided that the defendant was most likely guilty had the highest conviction rate. This suggests that the process of making a prejudgment in favor of guilt made jurors more committed

to this decision. Then they were more likely to interpret the evidence in the case in a way that fits their prejudgment. The jurors who were not asked to make any explicit pretrial judgment did not experience this effect. Thus, in the present study, the process of admitting bias during voir dire may have increased the salience of the newspaper article and committed these jurors to their opinion that the defendant was guilty.

Another potential direction for future research is to examine juror's ability to detect other types of bias accurately. Part of the rationale for focusing on PTP bias was that it lends itself well to random assignment. However, there is a long list of other biases that law is concerned about as well. For example, Broeder (1964) interviewed attorneys and jurors from 23 cases and is often quoted on his conclusion that "voir dire is grossly ineffective as a screening mechanism" for biases related to experiences and attitudes (p. 528). Similarly, a field study by Johnson and Haney (1994) found that a majority of the jurors they interviewed had actual bias involving past experiences and attitudes, which is higher than is typically reported in the studies that examine PTP bias (e.g., Sue, Smith, & Predroza, 1975).

A useful framework for distinguishing among the types of bias relevant to juror decision making comes from Fox (2014). He recommends four categories that may influence jurors' decisions: 1.) personal interests (e.g., personal relationships and financial incentives), 2.) case-specific beliefs (e.g., pretrial publicity), and 3.) case-general beliefs (e.g., stereotypes), and 4.) community interests (e.g., attitudes about retribution and just deserts). He suggests that the first two categories are more relevant than categories three and four. More research is needed to determine which types of bias jurors may have more trouble detecting and controlling.

A final potential research direction involves venire jurors' nondisclosures. That is, how are silent jurors perceived? The present study examined the possibility that venire jurors were

underreporting bias by making false denials; all PTP-exposed jurors had to provide an explicit statement indicating whether they were biased or impartial. Interestingly, in a Judicial Council of California report (Hannaford-Agor & Waters, 2004), observations of 704 prospective jurors from 18 criminal trials across 8 California superior courts revealed that "perhaps the most remarkable feature of substantive questioning is how infrequently prospective jurors actually have a response to questions" (p. 28). Moreover, these silent jurors, who never revealed personal information, were impaneled at a higher rate (64%) than jurors who explicitly stated that they could be fair and impartial (40%). Empirical research is needed on the assumptions of nonresponse during voir dire. It is problematic to assume that a silent juror is an honest and impartial juror if the real reason is that she is reluctant to admit it or not sure whether she is biased.

Conclusions

The primary purpose of the present research was to assess the accuracy of the PTP-exposed jurors who did not admit bias during voir dire. Previous research has suggested that the jurors who profess impartiality are either unaware of their bias or unwilling to admit it. To our knowledge, the present study is the first to attempt to disentangle these two explanations by examining how changes in the voir dire context influence the relationship between jurors' self-reports of bias and verdicts.

Overall, the present study casts doubt on previous research suggesting that venire jurors are prone to providing inaccurate self-reports of bias. Instead, the data revealed that venire jurors were able to detect their bias accurately and were willing to admit it. For judges and attorneys, this means that venire jurors' self-reports can be a reliable indicator of pretrial publicity bias.

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APPENDIX A: RECRUITMENT SCRIPT

Script read by the court staff:

Before you leave today, I want to let you know about a study you can participate in. A doctoral candidate from the University of California, Irvine needs your assistance. She is conducting a study on judgment and decision-making. She will pay you $5 after your participation which will take about 30 minutes. Participating in this study will consist of several short tasks and questionnaires. Your responses will be completely confidential.

The court is not affiliated with his study. You are excused from jury services, so you are not obligated to help out. If you have any questions or would like to participate in the study or find out more about it, please go to the tables at the back of the room. The researcher will give you all the information and pay you the $5 in cash after you complete the questionnaire.

APPENDIX B: BALANCED INVENTORY OF DESIRABLE RESPONDING

Please rate how much you agree with each statement.

1 Not at all - - - 4 Somewhat true - - - 7 Very true

Self-deceptions items:

1. My first impressions of people usually turn out to be right.

2.* It would be hard for me to break any of my bad habits.

3. I don't care to know what other people really think of me.

4.* I have not always been honest with myself.

5. I always know why I like things.

6.* When my emotions are used, it biases my thinking.

7. Once I've made up my mind, other people can seldom change my opinion.

8.* I am not a safe driver when I exceed the speed limit.

9. I am fully in control of my own fate.

10.* It's hard for me to shut off a disturbing thought.

11. I never regret my decision.

12.* I sometimes lose out on things because I can't make up my mind soon enough.

13. The reason I vote is because my vote can make a difference.

14.* My parents were not always fair when they punished me.

15. I am a completely rational person.

16.* I rarely appreciate criticism.

17. I am very confident of my judgments.

18.* I have sometimes doubted my ability as a lover.

19. It's all right with me if some people happen to dislike me.

20.* I don't always know the reasons why I do the things I do.

Impression management items:

21.* I sometimes tell lies if I have to.

22. I never cover up my mistakes.

23.* There have been occasions when I have taken advantage of someone.

24. I never swear.

25.* I sometimes try to get even rather than forgive and forget.

26. I always obey laws, even if I'm unlikely to get caught.

27.* I have said something bad about a friend behind his or her back.

28. When I hear people talking privately, I avoid listening.

29.* I have received too much change from a salesperson without telling him or her.

30. I always declare everything at customs.

31.* When I was young I sometimes stole things.

32. I have never dropped litter on the street.

33.* I sometimes drive faster than the speed limit.

34. I never read sexy books or magazines.

35.* I have done things that I don't tell other people about.

36. I never take things that don't belong to me.

37.* I have taken sick-leave from work or school even though I wasn't really sick.

38. I have never damaged a library book or store merchandize without reporting it.

39.* I have some pretty awful habits.

40. I don't gossip about other people's business.

* indicates items that are reverse coded.

APPENDIX C: PRETRIAL PUBLICITY NEWSPAPER ARTICLES AND MEASURES

Group 1: Irrelevant newspaper article

The Tribune-Ledger

IS THE BIG APPLE AN EASY TARGET FOR BANK ROBBERS?

By Katherine Thompson

STAFF WRITER

Crime in New York's five boroughs was down again last year, but Police Commissioner Nelson isn't happy. That's because bank robberies have gone up by 27% in that same time, which amounts to daily heists downtown.

Nelson blames the trend on banks' reluctance to enact security measures that interfere with their decorating schemes. One reason for the spike in robberies, says Nelson, is that banks are putting comfort above security.

Nelson has chastised banks that don't use measures like bullet-proof "bandit barriers" above the counters. These barriers prevent robbers from jumping over the counters.

Banks often shy away from installing bullet-resistant security systems. Sometimes this is a matter of cost, but more often because the bank fears to lose that "open look" and putting a damper on their relationships with customers.

Detractors of the barriers counter that just because a bank eschews the glass "does not mean it's not using a full list of security procedures." Many banks are investing in more high-end security technology, such as technology that detects firearms. The doors lock when the system detects someone is about to enter the bank with a firearm.

Additionally, promising new ink-stain technology may help put an end to automated teller machine (ATM) robberies. The technology, developed by French company Oberthur Cash Protection, releases indelible ink to smear currency notes.

"Our systems use technology to detect an attempted theft and protect cash by permanently marking it stolen, rendering it valueless," the company said on its website.

Still, a bank with 4% of Manhattan's branches but 15% of its robberies is one that lacks barriers.

The Tribune-Ledger

SUSPECT CHARGED FOR FATAL ROBBERY

By Katherine Thompson

STAFF WRITER

Police responded to an office park in the early hours on Friday for reports of a male victim at the scene of a robbery. Authorities learned at the scene that the victim, Benjamin Miller, 31, was a security guard who was found dead next to a company safe. He had sustained fatal injuries from several blows to the head with a heavy object. Police said more than $5,000 cash had been stolen from the safe.

Benjamin Miller leaves behind a wife and newborn son. His wife was inconsolable when speaking with reporters. Mrs. Miller said that this was "clearly a brutal and ruthless murder of a good man."

The Sheriff's Office reported that they received a tip that led to the arrest of John Dennis, 48. John Dennis was taken into custody without incident on Saturday afternoon and appeared in court on Monday. He has been charged with felony grand theft and manslaughter.

John Dennis has a significant prior criminal history. As a teenager, Dennis was convicted for misdemeanor breaking and entering. His crimes have become more violent over time. When he was 25, Dennis agreed to a plea deal for aggravated battery after getting into a fight at a nightclub where he had watched a World Series game.

John Dennis was also arrested and charged with domestic violence in 2015. Police responded to his home after a call made by his neighbors. His wife told the authorities that he threw her to the floor and repeatedly hit and kicked her. Another more recent domestic violence charge in 2017 was ultimately dismissed.

A neighbor told a reporter that John Dennis is known around the neighborhood for being short-tempered and hostile and is often heard fighting with his wife. "It's extremely upsetting," he said, "They are always screaming at each other. I've seen him kicking his dog before too."

Pretrial publicity measures

All participants:

1. What thoughts came into your mind while reading this article? Write a sentence or two describing your reaction to the article you just read.

Comprehension check questions:

2. Is the following statement true or false?

   2a. The Police Commissioner believes that there is a bank that does not have enough security.

   2b. John Dennis has been charged with grand theft and manslaughter.

   *Both questions are true.

APPENDIX D: VOIR DIRE MEASURES

Instructions:

We are asking you to play the role of a juror in a criminal case.

1. The first task will be the jury selection interview. You will be randomly assigned to complete the interview in one of the following formats: paper questionnaire or with a research assistant
2. Then you will be presented with the facts of the case.
3. Last, you will decide if the defendant is guilty or innocent.

Standard questionnaire:

1. Age:

2. Gender:

___ Male ___ Female

3. Ethnicity (check all that apply):

___ White
___ Asian or Pacific Islander
___ Hispanic or Latino
___ Black or African American
___ Middle Eastern
___ Other: _____

4. Generally speaking, do you describe yourself as more liberal or conservative?

1	2	3	4	5	6	7
Strongly Conservative	Conservative	Somewhat Conservative	Middle of the Road	Somewhat Liberal	Liberal	Strongly Liberal

5. What is your occupation? (open response)

6. What are your hobbies? What do you do for fun? (open response)

7. What magazines, newspapers, websites, or blogs do you read regularly? (open response)

8. Have you ever served on a jury?

___ Yes ___ No

9. Have you or your immediate family members ever worked in law enforcement?

___ Yes ___ No

The case that you will read today is People v. Dennis. The defendant, John Dennis, has pleaded not guilty to the charges of grand theft and manslaughter. In this case, an office building security guard was found dead next to a company safe. All of the cash was stolen.

10. Have you ever been involved in any capacity (e.g., party, witness, juror) in a case with similar circumstances or charges as the one in People v. Dennis?

___ Yes ___ No

<u>Only Groups 2, 3, and 4</u>:

11. Did the article that you read at the beginning of this packet cause you to form a fixed opinion about the guilt or innocence of John Dennis such that you could <u>not</u> be a fair and impartial juror in this case?

___ Yes ___ No

APPENDIX E: INSTRUCTIONS

Group 2 instructions:

The article that you read about John Dennis is admissible evidence, so you should use the information from that article when deciding your verdict.

Groups 3 and 4 instructions:

The article that you read about John Dennis is admissible evidence, so you should use the information from that article when deciding your verdict.

APPENDIX F: CASE SUMMARY AND VERDICT FORM

You have been impaneled as a juror in the case of People v. Dennis. Please read the following instructions carefully.

In this case, John Dennis was indicted on two counts:

(1) *Grand theft* of $5,200 from the safe of Capitol Building Inc.

(2) *Voluntary manslaughter* of Benjamin Miller, who worked as a security guard in the offices of Capitol Building Inc.

In California, *grand theft* is defined as taking possession of property valued at over $2,500 that is owned by someone else, and *voluntary manslaughter* is defined as causing the death of another person while committing a crime.

The defendant -- John Dennis -- has pleaded not guilty to the charges. He claimed that he was nowhere near the crime scene on the evening of the crime.

The fact that a criminal charge has been filed against the defendant is not evidence that the charge is true. You must not be biased against the defendant just because he has been arrested, charged with a crime, or brought to trial.

A defendant in a criminal case is presumed to be innocent. This presumption requires that the People prove a defendant guilty beyond a reasonable doubt.

In deciding whether the People have proved their case beyond a reasonable doubt, you must impartially compare and consider all the evidence that was received throughout the entire trial. Unless the evidence proves the defendant guilty beyond a reasonable doubt, he is entitled to an acquittal and you must find him "Not Guilty."

You will now be presented with the evidence in the case. Later on, you will be asked some questions about the case.

All witnesses have been warned that false testimony could result in a criminal prosecution for perjury.

Facts of the case:

John Dennis is forty-eight years old. He is married and has two children. He works as a supervisor for Capitol Building Inc., a large construction company.

As a supervisor, Mr. Dennis' job is to oversee the progress of construction projects and to coordinate the different work teams involved. Mr. Dennis is generally regarded as a hard worker. His co-workers describe him as a reserved guy who, at times, can be pretty moody.

At the end of every day, the company's bookkeeper places all of the company's cash in a safe. The safe is located in the back of the bookkeeper's office.

The safe has a timing mechanism that records the time and date every time it is opened and closed. The safe is also used for safeguarding other kinds of sensitive information, including pending bids and project reports. In addition to the bookkeeper and her assistant, the safe is accessed by the supervisors, senior salespeople, and executives. In total, about 28 people, including John Dennis, have access to the safe.

One morning, the company's bookkeeper discovered a horrifying scene in her office. The building's security guard, Benjamin Miller, was lying dead in a puddle of blood.

The timing mechanism showed that the safe was last opened the previous night at 7:21 PM. At that time, the office was usually deserted.

As reconstructed by the police detectives and the medical examiner, the security guard encountered a person in the course of removing money from the safe. A scuffle ensued.

The suspect seized the guard's flashlight and struck him with it twice over the head. The cause of death was a massive brain hemorrhage brought upon by the blows to the head.

The suspect also removed the cash from the safe totaling $5,200.

No biological evidence or fingerprints were recovered from the crime scene.

The key prosecution witness was a custodian, Joseph Alvarez, who routinely cleans the office building in the evenings. Mr. Alvarez's testimony took up about half the trial. He came across as a thorough and conscientious person. Throughout his testimony, Mr. Alvarez was composed, eloquent and seemed very credible.

Mr. Alvarez testified that sometime around 7:30 PM, he saw a person rushing down the hallway from the direction of the bookkeeper's office. He approached that person to inform him that the floor had just been mopped and may be slippery. The two men exchanged a few sentences. Mr. Alvarez stated that the exchange with the person took less than one minute. During that time, the men were within ten feet away from each other. He noticed that the person seemed tense and had a sweaty forehead.

Mr. Alvarez stated that the lighting was good, and that he got a good look at the person. Following the exchange, the person left the office in a hurry. Mr. Alvarez testified that he was asked by the police to identify the suspect at a lineup. When presented with the lineup, he identified John Dennis as the person he saw that evening.

When asked by the prosecutor if he was sure that the man he saw was John Dennis, Mr. Alvarez responded "I am certain that he is John Dennis."

Three days after the crime, John Dennis repaid a debt of $3,370 to his credit card company. The debt had been mounting over the previous three months, and the credit card company had threatened to take legal action.

Mr. Dennis said that he assumed the debt to help his sister-in-law Claire with her food truck, and that he repaid the debt from money she returned to him. He explained that he could not show bank documents to prove these transfers because, in the food truck business, financial transactions are typically done in cash.

Leah Reed, an executive at Capitol Building Inc., stated that she saw John Dennis just before 8:00 PM that night, as they were both picking up their children from a high school swim meet. At that time, John Dennis was dressed in sweats.

Ms. Reed stated that around that time of day, it typically takes about 40 minutes to get from the office to their neighborhood.

John Dennis' boss testified that a couple of months prior to the incident, she summoned him to discuss expenses that he had submitted for reimbursement. The boss chastised him for submitting non-refundable expenses. Mr. Dennis protested that many of his colleagues submit the same expenses and that he was being singled out. The boss was unconvinced. She refused to reimburse him for his expenses and delayed his eligibility for promotion by a year.

Mr. Dennis' colleagues reported that he was deeply offended by this incident. In the following weeks, he was seen working late more frequently.

You have seen all of the evidence in the case against John Dennis.

During closing arguments, the prosecutor noted that there is no question that grand theft, defined by the State of California as taking possession of property valued at over $2,500 that is owned by someone else, occurred. Additionally, there is no question that voluntary manslaughter, defined as causing the death of another person while committing a crime, occurred. Benjamin Miller -- the building security guard -- was dead after being struck in the head twice by his flashlight.

The money from the safe totaling $5,200 was gone. The prosecutor also noted that the evidence points to the guilt of John Dennis.

During closing arguments, the defense attorney noted that there is no question that grand theft and manslaughter occurred, but he very strongly denied that it was John Dennis who committed the crime.

YOUR VERDICT:

Has the evidence proven John Dennis' guilt beyond a reasonable doubt?

___ Yes (Guilty)

___ No (Not guilty)